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DOCUMENTS

OF THE

ASSEMBLY

OF THE

STATE OF NEW YORK.

ONE HUNDRED AND THIRTY-FOURTH SESSION

1911.

VOL. XXI.—NO. 30.—PART 2.

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1911

REPORT

OF THE

JOINT COMMITTEE

OF THE

SENATE AND ASSEMBLY

OF THE STATE OF NEW YORK

APPOINTED TO INVESTIGATE CORRUPT PRACTICES IN CONNECTION WITH LEGISLATION, AND THE AFFAIRS OF INSURANCE COMPANIES OTHER THAN THOSE DOING LIFE INSURANCE BUSINESS

VOLUME II

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Q. How is the western territory covered? A. They cover all the Western States from the Pacific to the Rocky Mountains.

Q. And the Eastern Union then pursues a different policy on commissions? A. Yes.

Q. Than the Western Union does? A. Yes.

Q. It is not the fact that they are practically made up of the same company? A. Well, they are not. They are different companies.

Q. Well, take these foremost underwriters you have been speaking of; they are in the majority in the Eastern Union; that is as to the bulk of business written? A. Yes, sir.

Q. These same companies belong to the Western Union, do they not? A. They do, and some others.

Q. Yes, so that the big influence in the Eastern Union, as to business written, and the same influence in the Western Union, are substantially the same, are they not? A. Well, the influence in both unions is toward a minimization of the expense, but they have been so far able to make it the same in the East as in the West.

Q. That is what I was getting at. The large companies doing a large business, pay a different scale in the West by reason of membership in the Western Union than they do in the East by reason of membership in the Eastern Union? A. If you put it that way; it is not by reason of their membership.

Q. Well, I say then, as a fact? A. As a fact; yes.

Q. Now the local agent exercises considerable influence upon the companies as to their underwriting, is not that true? A. Some; yes.

Q. Well, in just what way is the local agent able to dictate to the company as to what risks shall be written? He is not able to dictate at all.

Q. Well, is it true that a local agent will give some of his companies just the kind of business they want, or all of his companies just the kind of business they want and not induce the company to take the kind of business they do not want? A. Oh, yes. He will very often try to induce a company to take something they do not want, and he might sometimes succeed, and other times he might not. It depends altogether upon circumstances. The objections of the company might not be very strong, and he might be able to offset it in some way.

Q. Yes. Ordinarily the companies are not looking for poor risks, are they? A. No.

Q. And they want to stay away from them; the extra-hazardous class? A. That depends upon the rate. You can write extra-hazardous risks as any other kind if you get enough to pay for them.

Q. Ordinarily they do not care for poor risks? A. Not for poor risks.

Q. As a fact they do carry poor risks? A. Yes.

Q. And isn't it a fact that they do that for the reason that if they would not take that class of risks from the agent they would not get that preferred business? A. There is an element in that.

Q. Isn't it a fact that there is considerable of an element in inducing companies to go on poor risks, for afterwards the agent equalizes it and gives them good business, too? A. I do not think a company would write risks that they really expected to lose money on for the sake of getting it, but they might take risks of a somewhat loose grade than they would like to have, because a loss, you know, is such a heavy thing compared with the premium that you cannot afford to take much chance.

Q. Well, what would you say was the influence of the local agent on the reduction of rates? A. Why, the influence of the local agent is always towards reduction of rates.

Q. Why? A. Well, for several reasons. An agent gets a customer, and if he can show that customer how he can have his rate reduced, he more strongly cements the friendship with the man and prevents some other agent coming in and showing the man the same thing and getting the business away from him.

Q. You mean he shows his clients the ways of reducing rates by fire hydrants, and other ways of reducing the rates? A. The companies are always also working in the way of reduction by improvements. Their schedules are prepared with that in view.

Q. What is your opinion, Mr. Stoddart, of the system of paying contingent commissions? A. I do not think much of it.

Q. In the first place, will you explain what is meant by contingent commissions? A. Well, what is meant by contingent commission is this: You pay an agent a flat commission on the premiums, and then you say if, at the end of the year, your agency shows a profit, we will pay you a certain proportion of that profit.

Q. That is, you mean by that, by profit, if the fires on the business written by that agent have not exceeded the total amount of premiums—— A. (Interrupting) No, I do not mean fires alone. I mean fires to a certain extent. The customary way is to say to the agent, if your income for the year exceeds your losses for that year and the expenses incurred at the agency, which may mean commissions and postage and exchange, and so on, the surplus to be considered a profit and you will get a certain percentage of it.

Q. Why isn't that a plan of inducing the agent to be careful in the kind of risks he takes? A. Well, it is a pretty complicated subject. I do not know whether I can make myself clear in a few words, but it is like this: An agent represents a lot of companies. Now, he may have an unprofitable agency. I have one particular instance in mind, told me by one of our own men. There is a certain agent who had a large number of companies, and he said, I do not want graded commissions, I want contingent commissions, and our man said to him, "Well, I know you don't want graded commissions, because almost all of your risks are saw mills, and you would not get more than fifteen per cent. for them anyhow, so you don't want graded commission, but I do not understand why you want contingent, because your agency has never made any money. It showed a loss every year." He said, the reason I want it is this: We have thirty companies in my agency, and while my agency, as a whole, shows losses every year, only six or seven of those companies get the losses. The other companies all get the profit. I would get my contingent commission on those companies next year. The next year some other six or seven would get the losses and I would get the contingency on the others of the thirty. By this arrangement I would get contingent commissions every year, although the agency showed a loss.

Q. In that case you would say the contingent commissions worked better where the agent represented the fewest companies? A. That might be one inference drawn from this particular example, but the point I make about it is this: You are paying a profit each year. You are paying a contingent commission each year on the business of a year. Now, an agent can make a profit for ten years and lose it all in the eleventh year. You have paid him a contingent commission for ten years, and on the eleventh you do not get anything

back, and the eleven year period shows a loss, and yet you have paid contingent commissions on ten years.

Q. Would it affect your opinion, in this method of paying contingent commissions, if you forced the agent to wait a longer period of years than ten years? A. Yes. That would more nearly approach a real profit.

Q. But, of course, that would be impracticable, because the agents are not sure of continuing that long? A. That is it.

Q. You are acquainted with the complaint of some of the local agents, are you not, that there are too many of them in the business? A. Yes; everybody in all businesses think there are too many in the business.

Q. Yes. What is your opinion about it? A. Well, I suppose if you are artificially curtailing the number of people in any business, those left would have some benefit from it.

Q. Is it a fact, to your knowledge, that the great number of companies employ incompetent men as local agents? A. No; it is not.

Q. You would say for the most part they are competent men that they employ? A. I think a competently managed company will have competent agents. Of course, you may make a mistake occasionally and will have to rectify it when you find it out, but I say that generally the competently managed company will have competent agents.

Q. Take in the small town, for instance. If a new company comes in to get an agent and cannot get into the other established agencies, what is that new company forced to do in order to get an agent established in that town? A. Well, if he cannot get an established agency he has to appoint a new agent, of course.

Q. And, of course, in small towns where there is not enough business there to employ one agent all the time, he has to take a man engaged in some other line of business? A. Almost all agents in small towns are engaged in other lines of business.

By Judge BRUCE:

Q. Now, Mr. Stoddart, under the laws of this State, the agent binds the insurer, does he not? A. Binds the company; yes.

Q. And is paid by the company? A. Yes, sir.

Q. And in what respect does an insurance agent represent the insured any more than any man that sells any other commodity represents anyone except his principal? A. He does not represent them in a legal sense, certainly.

Q. In what way does he — in a practical sense? A. In the sense that he is dependent for his business on getting risks in his town of the people that own the risks who are practically his customers, and agents generally claim that the local business is drawn through private business.

Q. Well, he does not represent the assured any more than a man that is dealing in four or five grades of farm machinery represents the farmer to whom he sells the machinery, does he? A. I do not know that I follow that example.

Q. Well, presuming that I represent four or five manufacturers of farm machinery in a town. I am their agent; for four or five different companies, and I am selling farm machinery to the farmer. Now, legally, of course, I represent the companies whose agent I am. A. Yes.

Q. Well, now, an insurance agent does not represent his customers any more than I represent the farmers, does he? A. He does not in a legal sense, but ——

Q. (Interrupting) Well, in a practical sense? A. But if your agricultural dealer was a man that could sell anybody's implements, entirely controlled the trade of these people, and felt it necessary to satisfy them and keep them in harmonious relations with himself, why he naturally would feel that he represented them to some extent, or that he must see that their interests are well protected.

Q. Every man represents his customers in that sense, just the same, and to the same extent that an insurance agent represents his customers, isn't that true? A. I do not know how that is. The counsel asked me whether there was anything in their relations which would bring around a conflict, and I said that the peculiar relations which an agent bears with property owners who were his customers were such that while there was not any necessary conflict it sometimes placed him in a delicate position.

Q. The literature which I have read upon the question of fire insurance endeavors to apparently impress upon the reader the fact that in some peculiar sense a fire insurance agent represents the man

who he sells insurance to, in a different sense in which any other agent represents the people that he deals with? A. I think he does.

Q. That is just what I was trying to get at. Just tell me in what way he does? A. Well ——

By Chairman Merritt:

Q. A sort of professional relation? A. Yes. Well, you sell your man agricultural implements, and you are done with it, and the man sees what he has got and the bargain is concluded. When a man sells a fire insurance policy he sells a promise to pay. Now it is up to that agent to see that that promise is kept properly, or if he is going to maintain his position in the insurance world of his town. He is bound to say he feels the moral responsibility for seeing that the loss is properly paid, and if the ocmpany comes in and makes a close adjustment, or denies liability on grounds that are not considered legally justifiable, the agent is going to suffer thereby and he is going to work for the assured's interest, and very properly does so.

By Judge Bruce:

Q. That is in opposition to the interests of the company? A. It might possibly be so. It might be in opposition to the attitude of the company.

Q. You mean that the local fire insurance agent in case of loss would not, with fidelity, represent his principal, but on the other hand would work for the interest of the assured? A. I mean to say that a local agent, in the first place, does not represent the company in adjustment of the loss, except some trifling loss. He has nothing to do with it. His commission of authority does not authorize him to adjust losses. What I say is that his natural sympathy is with his customer, and that is a fact which is generally acknowledged, and the company has no quarrel with him. We aim to satisfy his customer. We aim to satisfy him, and he is quick always to see that his customer's interests are properly protected.

Q. Well, that is true of the agent dealing in any other material, isn't it? A. I do not know.

Q. A man is dealing in eight or ten different kinds of plows, and he sells them with a certain warranty. The man he wants to please

is his customer. He will sell another plow, and in case of a defect in it, he wants the company to make the plow good, so he will keep his faith and keep the customer's business. Isn't that true in any other line as in the insurance business? A. It may be. I cannot tell.

Q. The impression I got in reading the literature put out by the various companies was that in some peculiar way, different from all other lines of business, the agents of these companies acted in a duel capacity. It was something that I did not appreciate? A. You see the agent has a business which he claims is his individual business. Now, that business goes on irrespective of any particular company his agency has. He represents a lot of companies, and they may be continually changing, but that is his office and his business, and naturally it is his interest to see that his people are particularly well taken care of.

Q. Now, on the question of commissions paid to agents, do the companies which are allied in the Eastern Union, in the event they find that an agent is placing all the risks he can in other companies which are not in the union, and which pay a higher commission, have any uniform action which they take? A. No.

Q. Well, how do they go about it to secure their share of the business? A. I know the way we do in our practice. We go into an agency and we write a general business. We are not specialized. We do not say we carry nothing but dwellings, and pay a high commission for it, but we aim to make our insurance a practical benefit to everybody that has business to insure, and if you can't give us our due share of all kinds of risks we won't continue our agency. We do that as business principle.

By Chairman MERRITT:

Q. You do not make any contract in writing of any sort? A. No.

By Judge BRUCE:

Q. That is individual action on the part of your company? A. That is all.

By Mr. HURRELL:

Q. And the commissions that the Western Union put into operation, the graded commissions, was done with the idea of separating the agencies into those that handle union, and those that handle non-union? A. Yes; they paid more commission than we did. We said unless we are going to keep up with them and bid with them — they raised the commission every time we came up — we have to have separate agencies, so we said to the agents, "We will pay you graded commissions, and you will have nobody but those who pay you graded commissions and then we are rid of this continuous raising of commissions.

Q. And these insurance rates, I suppose, reflects somewhat the commission; the rates figure in the commissions somewhat? A. The rate must be affected, of course, by outgo. It is very difficult to trace the effect of any particular expense.

Q. You stated in reply to one of my early questions that these agents were very faithful to the company, and you have been just describing to Judge Bruce the way in which the agents worked for the assured, or for the assured's interest. Do you think it probable that the ordinary agent, when he knows a risk which has been insured through his office is deteriorated, either as to the moral hazard or as to physical hazard — is it probable that he will at once advise his principal to have that risk canceled, or won't his interest be to see that this customer is taken care of very liberally and say nothing about that, in order to keep the business? A. We have cases of that kind occuring continuously where agents cancel policies on account of deterioration of the risk that we never knew anything about. The natural effort of an agent when he finds a risk is deteriorating so that insurance would be hazardous or not permissible, is to go to the assured and say, "Here, you have to fix this, because if you don't do it your insurance will be lost." That is the natural tendency, but where a case of moral hazard comes up the proper thing to do is to cancel, and we have that continually occurring in our practice.

Q. Is it not the practice with a new company which enters an agency that it is in the average apt to get a poorer class of risks given to it by the agents than a company long established? A. Yes. That is true. If there is no demand for a company in the agency

that is true. If the agent has a place for the company that probably is not true, but if the company comes and forces itself in when there is not any demand for it, really they do not get as good treatment as another company that has been there a long time.

Q. Well, you have spoken of the demand for insurance. What is the difference between the situation in the city and in an ordinary country town.

By Judge BRUCE:

Q. Just before you answer that question I want to ask: The members of the Eastern Union — do they all pay a flat commission on risks? A. Yes.

Q. Make no distinction? A. Yes.

By Chairman MERRITT:

Q. The delicate situation to which you refer consists, to a large extent, I take it, in the difficulty of the agent to adjust himself to suit his customers and suit his company? A. Yes; his customer, or conceivably his company, might take an extreme position, and it might be up to him, too, in some cases, differ with the company, and there is a difference with the assured, and it is a little difficult for him.

By Mr. HURRELL:

Q. I will renew my question, Mr. Stoddart, and ask you to describe the difference in the situation between an ordinary town and a large city? A. In what respect?

Q. In respect to the new company coming in? A. Well, of course, there is more demand for insurance in a large city than there is in a small town, because very often approximately the same number of companies is represented in each, and, of course, a new company will fare better where there is a greater demand than they will where there is a less demand for insurance.

Q. And why do the companies force themselves into agencies in small towns and in small cities? A. Well, I do not know. I do not know why they should. I would not want to. I would not want to go into any agency where I had to force myself.

Q. That may be true, but isn't it a fact that the conflagration hazards in the great city are so large and they are often to such an extent that they have to go out of the conflagration districts and write insurance in the districts where there is less conflagration hazards than there is in the large cities and congested districts? Isn't that the reason? A. Of course, the more the company can scatter its business, the better.

Q. Or scatter itself? A. There is no doubt about that.

By Chairman MERRITT:

Q. I would like to ask a question: The demand for insurance is not anything that has to be particularly stimulated, is it? A. No. Almost everybody insures their property.

Q. And the efforts of the agent in soliciting the business as a specific business, is to secure it for his office more than anything else, isn't it? A. Well, I presume so. He does not have to solicit fire insurance as much as you would like, but there always are people who neglect to insure their property, or carry an insufficiently small amount, and there is a good deal of solicitation in that way. Of course, as you say, a man owning a piece of property may be solicited by two or three agents. Each one wants him for his office. But there is solicitation.

Q. He is more willing to insure his property than he is his life? A. Yes.

Q. I asked the question because the amount of the commission is a matter of some interest; whether it was sufficiently large so that agents were anxious to get insurance, and to that degree that made them write harzardous or extra-hazardous risks if they could get it, just for the sake of the premium as it has been alleged that in life insurance they took pretty poor risks, sometimes, in order to get their commission or premium? A. Of course, human nature is the same everywhere.

Q. You do not have anybody to refer the risk to in fire insurance as you do in life insurance where they have the medical staff, do you? A. Why, yes. When this daily report comes to the office — we haven't got to that — that is gone over very carefully by experts in that line, and they take up the question of the commercial hazard and the moral hazard, the commercial rating and the physical

characteristics of the building, and all companies have men whose business it is to travel around and inspect the risks and see whether they are what they ought to be, and whether the rate is right and whether there is any over insurance, and they have bureaus who conduct that business and make very detailed reports. I have a specimen of it here. So there is a great deal of supervision. It is not left to the local agents at all. In fact, the local agents complain nowadays that they are only premium gatherers; that the companies do not underwrite on their judgment, but go ahead and do it all themselves.

By Mr. HURRELL:

Q. Now, on the question of commissions, isn't it a fact that it is the weaker companies that are usually the most flagrant violators of running up commissions? A. In some cases they are pretty big companies.

By Senator WAGNER:

Q. What do you mean by excess companies? A. What I mean by excess is they pay more than we do; more than fifteen per cent.

By Mr. HURRELL:

Q. Well, the small companies that would have to do this forcing in prices to get into an agency — the practice is they ordinarily run up the price of commissions in order to get their part of the business? A. Yes. That is true.

Q. And that is part of the reason for the competition in commissions? A. Yes.

Q. That is, their desire to get that good business in order to keep their average up? A. Yes.

Q. Now, coming back to the maps, I want to ask this one question before you go on with the ordinary method the company pursues in taking care of its business: Do you know whether the companies are interested at all in the map company? A. Not to my knowledge.

Q. Do you know anything about that? A. I never heard of their being.

Q. Now, after the report comes in and the risk is noted upon the

map, won't you take the procedure of the office of the company from that point? What is done? A. Then they look up and see if they have on file any inspection report previously received from their inspector, and they examine the form of the policy and see whether it is properly written, and see whether the prices are in conformity with the laws of the particular State from which the risks come. It is a very complicated task, because we have one standard policy in New York which was originally gotten up with the idea that it would be adopted everywhere, and we would have a line of legal decisions on which everybody would know their rights. But other States got up their standard policies and now we have twelve different States with different standard policies in the United States, every one different from the other, and we have all the clauses, and a clause perfectly innocent in one State would condemn you to all kinds of penalties if used in another State, and all these things have to be watched, and when you have to go into the question of the rate, whether it is adequate. Those are all matters of judgment, and we have in the office, in all the offices we have men whose experience has been wide and who are expert in those matters, to pass on all these subjects. If they conclude that everything is all right they pass the risk through. If there is something they want changed they take it up with the agent and correspond and give him different instructions, and if it is necessary it may be canceled or a reduction of the amount may take place or change in form.

Q. Now, where you find that the underwriter is the man who decides on whether the risk is going to come up to standard, he has either the privilege of having it canceled or reinsuring part of it? A. Or reinsuring part of it.

Q. What determines the company as to whether they shall cancel or reinsure? A. The cancellation would be for some objection in the risk. Reinsurance would be because they thought they were going to have either too heavy a line on that individual risk or too heavy a line in a block or in a congested portion of a large city where they would be liable to some conflagration hazard.

Q. When you say something the matter with the risk what do you mean? A. Well, inadequate rate or moral hazard or bad form, or something of that sort.

Q. And are the men employed in the office, called daily report examiners — are they usually very expert men? A. They are.

Q. And usually high prices? A. Yes.

Q. Now, what is known as a special risk department in a company? A. Very many of the companies have what they call special risk departments. In that department they pay particular attention to large manufacturing risks, and more particularly to those who have installed automatic sprinklers or those who can be induced to install them. The automatic sprinklers are considered by the company to be the very best method of minimizing fire that is known. They are willing to make very great reductions in their rates to a man who will put automatic sprinklers on his properties.

Judge BRUCE: Are you interested, Mr. Chairman, in the description of the automatic sprinkler?

Chairman MERRITT: I do not know what they are.

Senator WAGNER: I would like to have it.

By Mr. HURRELL:

Q. Will you describe, Mr. Stoddart, just how an automatic sprinkler operates? A. The automatic sprinklers — you must have seen them here in all the department stores — you will notice in the ceiling there are rows of pipes, and every so many feet there is a head, and these pipes are connected with a water supply, generally two water supplies, one a tank and the other a pump, so that if one fails the other could be used. That pressure of water is on there all the time. Just as soon as a fire occurs, it must in a moment or two be under one of these heads, and they are soldered with a fusible link which melts at very low temperature, and as soon as the heat reaches it, it melts, and the water comes down and puts the fire out.

The special risk departments of the companies have men traveling all over the country. They are expert men who have generally had a scientific education, perhaps in Stevens Institute or in the Massachusetts Institute of Technology, and they will go to a man and be able to tell him what he can do and give an estimate of what it would cost him, and most of these manufacturers can see that if they can put in this automatic sprinkler they can pay for them out of their reduced insurance rates in a few years, and still continue to get very low insurance.

Q. And how does the rate on sprinklered business compare with the rates on unsprinklered risks? A. I have known of cases where there is as much difference made as eighty per cent. of the rate.

Q. What is the experience of the companies, roughly, as you may know it, on the fire losses occurring in the sprinklered risk department? A. They have been quite profitable. So much so that the rates on sprinklered business have been steadily reduced, until now it has got down to the point that there is not so much certainty that they are making a profit, but they believe this greater precaution will enable them to carry the business at these low rates and still make a profit on it.

Q. The companies on that class of business are in competition, are they not, with the mill mutuals? A. They are, to a large extent.

Q. And I suppose that the lowness of the rates on the mill mutuals has had effect on the stock companies? A. Precisely.

By Chairman MERRITT:

Q. As a matter of fact they do as well on the mill mutuals? A. Of course, the mill mutual you can't always tell what they will charge. They will charge a higher rate and give you a rebate, so you cannot tell what the rate is going to be until the event is passed, but the stock companies' rate will compare very favorably with it, especially when you take into consideration they are giving you insurance and not asking you to insure yourself.

By Mr. HURRELL:

Q. What is the organization called the Mutual Insurance Association? A. A. That is an association of companies for the purpose of cultivating this particular kind of business.

Q. And what relation has the sprinklered risk to the factory association? A. Not necessarily any. The special risk departments are making efforts in behalf of the companies to cultivate the business for themselves. The association also cultivates it for the benefit of all members that belong to it.

Q. Are there many companies that are in the association in the east that also have this special department? A. Yes. I know of one or two, but I do not know how many there are.

Q. Now, will you describe, Mr. Stoddart, the way in which companies take care of their reinsurances, that is, do they reinsure by special contract each time that they have a particular risk, or do

they have any blank contracts covering the whole subject of reinsurance? A. They have both. Some companies do no reinsurance except when they have a particular risk they want to reinsure, when they go out in the offices and see if they can reinsure, and if they can they do so. And there are others, however, that have what are known as reinsurance treaties, generally with foreign companies, whereby they are authorized to reinsure with that foreign company any risk they choose at a certain figure or amount.

Q. Now, you speak of reinsurance in the foreign companies. Are there companies in this State known as reinsurance companies? A. There are. They do no other business.

Q. And these companies do not have to keep the vast staff of the ordinary company that underwrites originally? A. Well, I suppose not. I have never been in the offices of one of them. I do not know.

Q. Well, now, do you know whether it is the practice of companies, on large lines, to reinsure with one reinsurance company, or do they split it up? A. Well, most treaties permit the company to reinsure with the treaty company an amount euqal to the amount that the original company carries, up to a certain maximum, say ten or fifteen thousand dollars. Well, if the reinsurance they need more than fills up that, they probably would go elsewhere with the difference.

Q. Well, is it a common practice with companies to have several treaties with different reinsurance companies? A. Some companies have, I believe.

Q. Well, what does the company do — the various companies do — ordinarily to keep track of the various statistics of the business. A. That is a very complicated task, and has increased very much of late years on account of the obligations laid on us by the various laws of the States. I know in our own offices in the period during which our business increased three times, the men we had to take care of it increased five times, which gives you some idea of the increased detail. Every report has to be recorded in the first place in regard to its terms, in order that we may make proper statements to the Insurance Commissioners of our liabilities. We must keep a record of whether it is one year or three years or five years business, and any cancellation in that time will have to come off, so

that the vast mass of outstanding business presents a very complicated account continuously in order to calculate that. That, I presume, is unavoidable. Then we have a great many more statistics that are very expensive and seem to be unnecessary.

Q. That is to meet the requirements of State laws? A. To meet the requirements of various States. In the first place, from the several States — this is not exactly statistics, but it is a detail — there are several States which won't allow us to pay a loss until five days after we have reported to the Insurance Commissioner, and in every case of every loss we have to give the amount, and how it occurred, and where it was, and wait five days before we can pay it.

Q. Is that a return that must be made to the Insurance Commissioners, or the fire marshals, in some States that have fire marshals? A. Insurance Commissioners, I believe, because most of the States do not have fire marshals.

Q. Do you recall what the alleged reasons for these laws are? A. I suppose the State wants some statistics. I do not know why, because they get the premiums and losses every year from the company in their annual statement. I do not know why they should have the details. Now, for instance, there is Mississippi. The blank we make out for Mississippi for every loss — it may be only a dollar. There is South Carolina, the same way. There is Vermont, the same way. There is Louisiana, the same way, again, and Maine, and all that. That is just one detail; and we have to make out for Texas, and in the various States, Massachusetts and Texas, a statement giving the name of agents, amount insured, gross premiums and everything by each agency and practically the same thing for lots of States here that I have in my list. Of course, that detail is tremendous. You have to have a big office and a lot of clerks to do it, although it is not worth much when it is done, but it is unavoidable. It is put on us by law, and even going so far in Wisconsin, as when an agent's license is to be issued, they shift the whole thing on to us, or send a long blank and require us to fill in the agent's license, and fill in the record for the Insurance Department in Wisconsin, and send it back to them, and fill in the record for the stub in our own office. They do not do anything else except the lithographing of the blank and putting on of the Commissioner's seal.

By Senator WAGNER:

Q. Do the laws of these States permit the Commissioner of Insurance to go into the reasonableness of an adjustment? A. I do not think there is anything in the law that would permit it. I do not think we have been in any adjustment that was questioned. I do not think they look at these things after they get them.

By Assemblyman FOLEY:

Q. What kind of those reports do you make in New York? A. None in New York.

By Chairman MERRITT:

Q. Does it make any difference in the case of adjustment if it comes out in court? A. If it goes to suit, of course.

By Mr. HURRELL:

Q. Please let me see those blanks. May we have those? A. Yes, certainly.

Q. What other statistics do you have to keep in your department? A. We keep a classification of the business.

Q. Classification of the business? A. Classification of the business; yes.

Q. What do you mean by that? A. Classification is a statement showing the premiums on such class of business as a company chooses to divide their business into, and the losses on those classes.

Q. And is it a common practice for each company to have the classifications? A. Yes; quite general.

Q. And how many classes are there in the ordinary company into which they divide their premium and losses? A. Well, there is no rule. In our practice we divide them into 165 classes.

Q. That is the Hartford? A. Yes.

Q. Well, it is a fact, is it not, that in some companies the classes are divided down into as large a number as one thousand or twelve hundred? A. I have so heard; yes.

Q. What is the reason of that? A. Reason of what?

Q. Of that classification? A. Well, classification has some value. You want to know whether your agents are giving you

nothing but manufacturing risks or nothing but stocks of goods. You want to know how your business is being divided, and you get this classification and you total them up, and you see whether you are getting what you consider to be the proper proportion of every kind of business.

Q. Well, the classifications are also useful, are they not, in indicating to the companies what classes of business are desirable? A. Well, they have some remote benefit in that way. As nearly as I could describe it, I would say that it is something like a mariner at sea. He cannot take an observation; everything is black, but he has had a kind of dead reckoning, and it gives him some kind of an idea about where he is. So I should call classification a dead reckoning of fire insurance business. It is not reliable, but it has some value.

Q. It has some value, to apply it concretely, if a company found that on saw mills, for instance, they were having a bad experience. Then they might naturally conclude that they would go right on saw mills the next year? A. Yes. They might, and it might not be a good conclusion to come to, either.

Q. Because the next year the saw mill business they did go on might not burn? A. Exactly it.

By Chairman MERRITT:

Q. Does it have any bearing on rate making? A. I do not think it has any bearing at all on rate making.

By Mr. HURRELL:

Q. If you extended that classification over a long enough term of years, and assume that you had it classified down to a greater number than 165, such as you have, and extended over at least five or ten years, would not the net result of the combined experience of all the companies, if contributed to one source, either rate-making institution or bureau of information, be some test as to whether the premiums taken in for insurance on a certain class of business had been excessive or deficient? A. No, I do not think it would have any. It would be nothing but a jumble of figures. I do not think it would have any bearing on that at all.

Q. Take it and apply it down to what I am explaining, and apply it down to the particular kind of planing mill, and assume you have your classification divided up into enough divisions, so you have one particular class of planing mills, and you have the statistics on that as to premium income, losses and expenses incurred, over, we will say, a period of ten years? A. Yes.

Q. Do you mean to say that the results, if you found that you had taken in a million dollars less in premiums than you had paid in losses, would not be very significant as to whether the planing mill class were paying enough for their insurance? A. Of course the variation of a million dollars is so extreme that it would not be likely to occur on a little class like planing mills.

Q. Then make it reasonable by saying $50,000? A. Well, I do not think it would. You see, you have one class of planing mills, and when you go into these planing mills you have got planing mills with boilers inside, and you have planing mills with boilers so removed that there is no explosion, and you have planing mills where perhaps they introduced some furniture factory hazard, and others where they do not. When you classify a thing, the idea is to put things alike together, and you cannot do it.

Q. You have mentioned six classes, and it is possible under classification to have the six classes separate; is that true? A. It is, but when you go to work to subdivide that way you get a small basis to work on. You reduce the average so that you may have three or four classes of planing mills all knocked out.

Q. That is, if you are operating within a limited period; but suppose you had that average from the business of the entire United States and Canada by all of the companies operating in this State? A. Well, then, what would you have? A. You would have an average between Oregon and Florida and New York.

Q. Yes. A. What good would that be for you?

Q. It would be good, wouldn't it, in determining whether the premiums you had taken in on that business over a period of years have been sufficient to make up for the losses in planing mills in that class? A. How are you going to regulate your rates in Florida or Oregon or Washington by that? A. We are not talking now as to rates in Oregon or Washington, but as to whether that would not indicate that the companies had not received enough premiums to

pay for the losses in that particular class, wouldn't it? It would do that? A. It would do that. That is merely an arithmetical statement. They will, on these risks, receive so much and pay out so much, but it is inferences you draw that are important.

Q. We are not drawing inferences. The thing I started off on was whether that would not be a check on the total premiums received from your particular class of business over the whole country, and over a sufficiently large period of years to give an average. That is the only thing. A. It would show that fact.

Q. It would show the fact? A. Yes, but the mischief would come when you commence to draw inferences from it.

Q. That may be. But now one thing: If you had that and the man with the planing mill of any one of these six classes mentioned complained that his rate was too low or too high, or when, after you had received that information, and had said, why, we are not getting enough money on this particular class of planing mills, and will have, in order to protect ourselves, raise the rate, you would have an answer to that man as to why his rate was being raised, wouldn't you? A. Well, we have got an answer now.

Q. You may have an answer, but you could not prove it to his mind as well? A. You can say, of course, that every five years that all the planing mills in the United States got bad and into the hands of incendiaries, and an honest man situated in Florida cannot accept such an argument. That won't satisfy him. He says, "My mill isn't like that. I have a fine risk." That is what they all say. He won't be satisfied with that.

Q. I know, but if you were before the Louisiana Court of Review and were called upon to show cause why you were advancing rates on the planing mills, you would have something concrete to put up to a court, when you get to a reasoning man, and not the man who puts up the risk, but to somebody who is to pass on whether the raising was right? A. I would sooner not have a reason than one I thought was an illogical reason.

Q. Well, now, I thought we concluded — understand, we are just discussing it — I thought we concluded that the net result of that information, if you had it, would be to check up whether, on a given class of goods, or a given class of risks, in the course of a period of years, you had received enough premiums to pay the expenses and

losses, or whether you were deficient or whether you had collected an excess. A. That would be no sign that in the next five years, at the same rates, we would not get enough to do it.

Q. What is the good of insurance people claiming that in order to do justice you had to get an average, if you take a sufficiently long period of time to get the average? A. You have to get an average, but you cannot make your rates on classification tables. That is the point.

Q. Will you undertake to say that the average amount of insurance on any given class will be heavier within the next ten years than it was within the last ten years? A. Amount of insurance?

Q. I mean amount of losses? A. Yes; very likely.

Q. What is the good, then, of talking about the average at all if that is true? A. That is the grand average you have to go on. You cannot make all classes pay.

Q. Well, now, that is just what we are coming to. Why can't you make all classes pay? A. Because you can't. That is all. It is not in the figures. It is not in the cards. Too much uncertainty in fire insurance business.

Q. I know, but this may be theoretical about the results of classification, but if you have already done with your classes so that you could show whether a given class produced a deficit or excess over a given term of years, that would be an answer to a rate-making body, wouldn't it, of whether the rates in that class were high or low? I mean in checking up. A. You started out by asking if this information would not be useful in checking up the rates on given prices of property. I think a statement of that kind has a certain amount of bearing; a certain amount of interest, but it is utterly inconclusive.

Q. Well, now, it may be inconclusive, but it is a fact, of course, as you said, that each company keeps a classification of some kind? A. Yes.

Q. And if their classification showed up that there was a loss on a given line of business, the company would not continue writing that line of business at the rates they were then receiving? A. Oh, yes, they would.

Q. Why would they? A. Well, because if they are to write at all, they would have to write at those rates, and besides some men

believe it is going to be unprofitable taking a special line of hazards. We never make money continuously on any special line of hazards. Some years this will show a loss, or for five years, and the next five years the profitable ones will be unprofitable, and the unprofitable ones will be profitable. It is the grand average you have to go on. You cannot subdivide and make it on each class.

Q. You are speaking of one company? A. One, but I think it is pretty true, generally, and I say one, because we do the largest business in the United States.

Q. That is your Hartford Company? A. Yes.

Q. What is the significance of the term "preferred business?" A. Well, the business which you would sooner have than some other business.

Q. What is it that determines that you would sooner have that business? A. It is generally considered there is more profit in it.

Q. That means that the experience in that class has been very favorable to the companies, does it not? A. Yes, I think it would be, and they presume it will still be profitable.

Q. Now, they get to that particular comparison in their classification, don't they? A. Well, it is a very difficult thing, because it is a very large class. You see, when you come to value classification relating to value, the value of all the planing mills in the country is comparatively small, because the number of all the planing mills in the country is comparatively small.

Q. Yes. A. Of course, of dwellings — there are more dwellings in the country than any other kind of business.

Q. I may be very unfortunate in selecting the planing mill as an example. Then we will switch to the dwelling house property, where there is a large number of the same risks in each community. Now, the experience of either one company on the rwelling-house business indicates to that company that that business is profitable, doesn't it? A. Yes.

Q. Ordinarily? A. Yes.

Q. But that is what the companies have concluded? A. That is true.

Q. Now, they educate themselves to that from what their classification shows, don't they? A. Partly.

Q. Well, if there was a mere novice in the business and they

took the classification of any of the large companies on dwelling houses, he would conclude from the figures placed before him that he had never seen a dwelling house if it was labelled something else, instead of being labelled dwelling houses? A. In our business they know there is profit on dwellings.

Q. That shows that the rates charged on dwellings are altogether adequate and sufficiently large to produce good revenue to the company? A. Yes.

Q. That is the significance to be drawn from it. So, isn't it true, if you checked it up, that the rates charged on dwelling houses from even the State of New York, would show that the rates charged were considerably in excess of the loss experienced? A. Well, now, you see you are coming close to my argument. I say it is general average. Now, the dwellings are the very largest class of buildings in the United States. There are more dwellings than anything else. You take all the dwellings in the United States, and you almost get the whole country. Now you are getting close to the general average. It is general average you have got to look to. You say you make money on dwellings. When you say you make money on dwellings, that means you could do it on dwellings proper and on properties in exposed places; dwellings with tin roofs, maybe, or shingled roofs, or occupied by one family or several families, or situated where they are exposed by mercantile risks, or where they are not exposed by mercantile risks. You may say you have on the whole a profit, but you cannot change and say that in making a charge on any individual risk that these classifications will help you. You have to take its peculiar characteristics into consideration.

Q. You mean dwelling houses? A. Any peculiar dwelling-house risk.

Q. On the same argument, could not you bundle together all the planing mills? A. No, because they are so few.

Q. They are so few, but if you take them throughout the world or the North American country? A. Oh, yes.

Q. If you take the following results — coming back to the planing mill illustration — if planing mills, as a whole, by reason of the fact there are only a few — if the damage suffered by these planing mills has been so far in excess of the premiums received, then the result is that the man paying on the preferred business is paying for

losses on this poorer business; is that true? A. Yes, it would be so. It is so in all classes that are unprofitable for a period. During that period some loss is paid, but during the next period they may reverse and pay off the other.

Q. But over any period of years how are you going, then, to conclude whether that class of business has been profitable at the rates charged? A. You do it as a matter of judgment.

Q. You do it as a matter of the absolute result of figures? A. Yes, if you have the figures. You see those, but that has no bearing on the time. The next time the rate on any particular number of that class may be unprofitable.

Q. The statistics the companies keep, then, as far as classification goes, are simply classifications for their own knowledge? A. Of their own business.

Q. Of their own business? A. Yes.

Q. Do you know of any organization of companies where they pool their experience? A. No, I do not.

Q. Are you familiar with the association — I do not know the name of it — in the city of Chicago where the companies combine their experience? A. Oh, yes, I have heard of that. I was thinking of New York.

Q. Can you tell us anything about that organization? A. No. I do not belong to it.

Q. Is there any other branch of the statistical department of which you have not spoken?

By Judge BRUCE:

Q. Mr. Stoddart, theoretically, should there be any preferred risks, any extra-hazardous risks, if the premiums are laid equitably and justly? A. Well, you see, there are a great many causes that would work in the creation of rates. Now, it is natural that the rates on dwellings should comparatively be higher than they are on some other kind of risks, because, in the first place, the particular premiums are small. It is just as much labor to write a policy for a two dollar premium as it is for a $100 premium. It is just as much labor to report and it is just as much labor to pass through the books, and it is a great deal more labor for the agent to go and get it, because he has to make one or two trips, and has to do his col-

lecting, and in the case of a large manufacturing establishment, or store, he would probably only go once. He gets his premium more quickly from the merchant than he does from the ordinary householder, and it is a great deal more expensive business to do, and being retail, the tendency, of course, is the rate should be higher, and naturally would be higher, than wholesale business.

Q. Give me an example of what you call a preferred risk? A. Well, opinions differ. Some risks that are considered preferred, I do not think preferred at all, for instance, churches. Now, that is classed as a preferred risk. Speaking personally, I would just as well be pleased if we did not have a church on our books. I do not think it is preferred business.

Q. What does your company consider to be a preferred risk? A. Dwellings are generally considered preferred business.

Q. And that is the kind of business you look after? A. We get all we can of it.

Q. But the fact it is preferred is based on your experience with that class of risks? A. Yes.

Q. Well, if it is preferred, then it must be because the premiums received from that class of risks have returned a larger profit to the company than the premiums received from some other risks which you call hazardous. Is that right? A. I do not think it has returned a higher percentage of profit, but it is such a large class you naturally go for it all you can. I think there are plenty of risks which you might term hazardous, which have paid us in our particular experience a higher percentage of profits than dwellings. In fact, there are some parts of the country where we look askance on dwellings. I should be very glad, indeed, in the State of Texas, if somebody should come along and take every dwelling we have off our hands. We do not like them.

Q. Could you suggest to the Committee any classification of risks or any pooling of experience on behalf of companies, by which the premiums charged on different classifications could be more equitably adjusted? A. Well, you get to — that assumes they are not equitably adjusted.

Q. Well, from the fact that some are sought after with such energy, and others are avoided, and that you had rate-fixing bodies which absolutely fixed the rates, in which the companies themselves

have nothing to do with it, in so far as being able to vary from those rates, we assume the rates are not equitably adjusted, based upon experience? A. Well, I think I could go into an argument to show you that they are.

Q. Well, go into it, will you? A. Yes, if you will excuse me about three minutes.

Q. Certainly.

Judge BRUCE: There is a question pending? A. I will have to go back to get a start on that. We have had some figures submitted here by Professor Whitney in regard to ——

By Judge BRUCE:

Q. Don't misunderstand me, Mr. Stoddart; I don't mean the rates as a whole are too high or too low, or the profits of the company are too little or too much; I mean whether the present method of classification and fixing the rates is just and equitable? I understand, and I will come to that through this means. We have had some figures supplied from Professor Whitney as to the profit on the capital — I forget how he expressed it — the stockholders' property — I forget the exact form.

Q. The proprietary interests? A. The profit of the proprietary interests, for a period of 20 years, for six of the largest and most successful companies, he showed on his method of figuring, which included the returns from interest receipts, and appreciation of securities, that those companies had made an average profit of 10 per cent. on the proprietary interest of that period. Now, that was for six of the most successful companies in the United States. He then took six medium-sized companies, and on the same basis he showed the profit for that time to be six per cent., if I correctly remember.

Q. Six and 6.10 per cent.? A. He then took six small companies, and showed their profit in that time to be 4 1-2 per cent. Now, that does not take into account all the companies that failed or had to retire from business. Now, we will take the top figure, 10 per cent., made by the six of the largest and most successful companies. Now, in collecting that, the Professor has properly said that capital belongs to the stockholders; that the surplus belongs to the stockholders, and that if the companies were to wind up and

discharge all liabilities, that 30 per cent. of the reserve would remain the property of the stockholders. Now, in calculating whether the rates are high or low, of course we have got to take into account what return capital is receiving for carrying on this hazardous business. I have taken the figures of the six large companies, and I have taken the aggregate capital, surplus, and 30 per cent. of their reserve, and I find that those six companies, their aggregate capital is $14,500,000; their aggregate surplus is $45,978,267, and 30 per cent. of their reserve is $15,295,356; so that there is a proprietary interest there at present of $75,773,623; that is the proprietary interest in those companies. Now, those companies are receiving on that proprietary interest, at the present, dividends $3,512,035. All that property is at the risk of the business. It is left there for the purpose of meeting the contracts of the companies. Suppose these companies determined to retire from business, they could pay all their liabilities, carry every risk to expiration, and have $75,000,000 left. If they were to invest that fund in 4 per cent. savings bank securities it would yield an interest of $3,030,000 per annum. So that leaves on that 4 per cent. absolutely safe investment only 1.63 of 1 per cent. as the sole compensation of the stockholders that those companies are receiving for risking that entire fund at the hazard of the business. Now, I think it must be concluded that when we consider that those are the most successful companies, and that that is the result with the rates as they are now, we must conclude that they are very low. Now, we know that in this State the Supreme Court of the United States decided that in a legislation that reduced the profit of the Consolidated Gas Company below 6 per cent. was unreasonable and void on that account. Now, if 6 per cent. for that imminently safe investment like the Consolidated Gas Company, where the company is dependent on a franchise, and it has been decided that where the return was less than 6 per cent. it was unreasonable, surely a return of 1.63 per cent. on the fire insurance business, where the whole is liable to suffer a conflagration and a hazard, is proportionately large, then, for the Legislature to adopt laws to reduce rates, would tend to keep out of the fire insurance business and to discourage the entrance into it of new capital. You can see there is very little inducement to stay and there is less inducement to come in. Now, all through this country, in the last 30

years, there has been a tremendous increase in all kinds of financial interest, banks and trust companies have all multiplied and grown strong. It is a remarkable fact that in the fire insurance business that, with the exception of a few consolidations and affiliations of established companies, there has not been a company started in the United States for 35 years whose surplus to-day will amount to $600,000. So you see that there is very little inducement; that is a practical illustration of the fact that the current rates are not high enough to attract capital into the business, and is giving the capital in the business an absurdly low percentage of profit.

Now, why is it that those rates are as low as they are? New York State, for instance, has, with — except Delaware and the District of Columbia, which are residential, smaller residential communities — New York State has the lowest average rate in the United States to-day. However, it has to-day, and has had for the last 29 years, an average loss rate almost exactly the same as the average of the country. Now, that is very conclusive evidence that rates in New York, on the whole, have been so proportioned that they are very much lower than in any other part of the country, still their proportion to the hazard gives the percentage on loss on those low rates as just the same as the percentage of loss in the rest of the country has been with higher rates. That is, I think, pretty good evidence that rates, on the whole, in New York are pretty near right. Now, the whole is made up of its parts, and the rates that are adjusted, which go to make up that whole, they are adjusted on the best judgment of the underwriters. Now, of course, it is very easy to say a certain class is profitable, as taken in a period of years, and a certain class has not been profitable. Those things will vary. But, if it is a matter of belief with the fire insurance companies, that a certain line of risks is abnormally profitable, the rates on that will come down. They are coming down on dwellings, have been coming down on dwellings latterly. They are not nearly as desirable as they used to be. In some parts of the country they are undesirable, as in Texas. While you say the companies have the power to make the rates, that the power is not a power to make the rates at all. It is really only a process the companies have of registering what the rates should be in the judgment of the great mass of the companies. If the rates are too high, the organization don't care to keep them

up. You can't bind 150 companies to keep the policy, even if they made it. It is absurd in gentlemen's agreements, among the railroads, where only three or four people are interested, they could not keep them, and if 150 companies or more, represented by agents in every direction, anxious to get commissions on premiums, and having field men by the score, you can't keep any policy or any rate at all, that the companies do not believe is just, or is too high, or not as low as it ought to be, to give them a fair profit, if they think it is too high they will cut it. All the companies know that, so the general tendency has been in New York to make the rate, as these figures show, as compared with the rest of the companies, on an average lower. My contention is, in effect, that the associations are merely for the purpose of registering and the consensus of opinion. They are not for making rates arbitrarily. Therefore, my contention is that the rates, as far as it is practicable to do so, are that practical proportion among the various classes of risk, and if there is any corrective necessary it is such a corrective as competition will supply.

Q. Well, if there are certain classes of risk, that shows such a profit that they are very desirable, that the agents get a higher commission paid them and they get a different rate than on other risks, if that is so, is there not an inequality in rating? A. Well, what risks are they?

Q. If I recall correctly, your own testimony here was that there were some risks, for instance, residences in Texas, which the companies didn't like at all? A. Those things will correct themselves. They won't in Texas, because they have an arbitrary law there for making the rates themselves, and the result is that the property there will not be insured or the State will have to increase the rates. But in a country where it is profitable, where there is competition, the rates redound down, following the tendency of all business, which is that, if left alone, will find its own level, wherein the price and cost will have a certain relation to each other in the long run.

Q. In your schedule — in your company, what do you call an extra-hazardous risk? A. Extra hazardous?

Q. Yes. A. I should say a glass factory is an extra-hazardous risk.

Q. Why extra hazardous, if it pays a sufficient premium? A. Perhaps they don't pay a sufficient premium.

Q. That is the point I am getting at. There are risks, then, that do not pay sufficient premium; if that be true, then this adjustment is inequitable. I may say freely what I have in mind is this: There is a great deal of complaint on the part of assured persons who carry insurance, that those who have what you call preferred risk are compelled to bear the burden of the risks that are considered hazardous; why shouldn't that be equitably adjusted, by putting the rates on glass factories up, and down on dwellings? A. There may be, I don't know whether there are, any glass factories in New York at all. There may be; I know there are some in Pennsylvania.

Q. In New York State? A. Yes.

Q. It has the largest in the United States? A. Where is that?

Q. At Corning. A. There are not many. I don't know that particular risk. The rate on that may be compensatory; I don't know. My contention is that you can't determine the proper rate on a risk solely by the experience on that class, and I'll tell you why. Occupancy is not the only thing that goes to make the question of the desirability of a risk. There are four things; one is construction, the other is exposure, and the other is fire protection facilities, and the fourth is occupancy. Now, the first thing in the classification of risks, leaving out the other three.

Q. But isn't there some method of classification by which the rates could be more equitably adjusted between classes; that is my question? A. In my judgment there is no more equitable way of adjusting rates between classes than to leave it in such shape that companies who write the risks will charge less rate, if they think it too high, or they will charge it more if they think it too low.

Q. Have you that freedom of action; your company? A. Yes, we have in substance.

Q. Have you in fact? Can you adjust your rate to what you deem to be the hazard of the risk? A. They are adjusted to what is deemed the hazards of the risk, in the opinion of the party of expert opinion that insurance companies employ.

Q. In other words, so far as the Metropolitan district is concerned, in a body, the expert opinion is expressed by the Board of Fire Underwriters of New York? A. The Insurance Exchange.

Q. I mean of the Insurance Exchange. Presuming that your company thought that the rates on dwellings in New York city were

too high, what would you do, practically, to lower them? A. We would appear before the rating committee and consult with the experts, and compare our judgments and find out. Because we would realize if they were too high that somebody would get them at a lower rate, and therefore we would want to have our share, and properly.

Q. What if the opinion of the New York Fire Exchange was against your judgment, then what would you do? A. Well, they might be able to convince us we were wrong.

Q. What if they did not convince you that you were wrong, and you did not convince them you were right; what would happen? A. These matters have to be adjusted on a consensus of opinion; there is no possible way of arriving at a mathematical conclusion.

Q. Now, as a matter of fact, the members of the Fire Insurance Exchange are bound by the judgment of the exchange, are they not? A. Yes.

Q. And when the exchange fixes a rate, it knows you are a member of the exchange, and you must adhere to that rate? A. Yes. If they make a rate too high, somebody would cut the price.

Q. Who is that somebody? A. I don't know how the other companies are. There are about 150 companies grouped together in New York city, and they are all eager for business. You see there is a great mistake, Judge, in looking at the insurance companies as an entity. They are not an entity. There are 150 violently competing organizations.

Q. They are not violently competing on rates, are they? A. They are.

Q. How do they do that? A. They compete in this way: Everyone of them knows that any class of risk that is made higher than the ordinary profit, that somebody is going to take the business, outside of the agreement.

Q. But, so far as the members of the Exchange are concerned, they act as a unit, do they not? A. I am talking about the members of the Exchange.

Q. There are 110 members of the Exchange in the Metropolitan district? A. Yes.

They act, as far as rates are concerned, as a unity, do they not? A. Yes.

Q. If the rates are too high, who else is going to get the business? A. Some of those members.

Q. They cannot accept the business at a different rate, can they? A. You have heard of a gentleman's agreement, haven't you?

Q. Yes, I have heard of them.

Chairman MERRITT: Are they bound in a contract?

The WITNESS: No contract at all.

Q. They are bound by an agreement which they sign when they become members, are they not? A. Yes.

Q. If they break the agreement, what happens? A. I don't know what would happen.

Q. If they break the agreement what happens, this gentlemanly agreement; do they go out for themselves? A. Yes.

Q. Do they get brokers to write for them? A. Yes.

Q. Who is doing the business of the other members of the Exchange? A. Well, he would have to do it at a lower commission, that is all.

Q. At the same time he can take business from the other members of the Exchange? A. Yes, at a lower commission.

Q. At a lower commission, of course. A. Yes.

Q. Have you heard of any case where rates were too high of the breaking of this gentleman's agreement? A. No; I don't know of any. You see, an effort has been made so it would not be to their interests to do it.

Q. Going back to the real point I had in mind, Mr. Stoddard, whether there was not some method by which there could be a more equitable adjustment of rates as between classes of risks, as to whether the rates fixed by the Exchange were correct or incorrect, too high or too low; or if they could not be in some way more equitably adjusted; that was what Mr. Hurrell had in mind when he asked if there could not be a larger classification? A. The only suggestion on that line I have ever heard is the classification. Now, my judgment is that that would be an absolutely futile attempt, because, if you are going to use classification at all with that in view, you have got to see that the rates that the classification table produces are right, or nearly so. Now, I think I am prepared to show that they would not be. Therefore, what is the good of them?

Q. Assuming that each company was required to keep a classifi-

cation as large as possible on risks and file this classification with the Exchange and with the Department, wouldn't there, in that way, be a method by which you could determine some of the inequities in risks? A. As far as I know, there is only one class of business, in my judgment, where classification would do any good. That is farming business; for the reason it would not be accurate there, but it would be more nearly accurate. The reason of that is the risks are all detached, they are all about the same, there is more chance in them for a proper average; they are all occupied as dwellings. But as soon as you get into mercantile risks, where you have various occupancies; no two mercantile risks are alike, where there are various occupancies, various hazards, exposures, different degrees of insurance care, and a thousand differences, which would result only in your getting an average rate. It wouldn't have any bearing at all on the specific case.

By Chairman MERRITT:

Q. You said, Mr. Stoddart, that about 150 companies, were there? A. In New York.

Q. Were in New York? A. Yes, at an off-hand estimate I think that is about right; yes.

Q. How much cheaper, do you suppose, would be the cost of insurance, supposing that the whole situation was concentrated in one great concern? A. One company?

Q. Yes. A. Why, of course, the tendency in companies of that kind would be to somewhat reduce the expenses, and therefore tend to reduce the rate.

Q. It would save agents, and save office expenses? A. Yes, it would have an economizing effect, which has been alleged in regard to the formation of the large trust.

Q. You spoke of the Consolidated Gas matter, in the decision of the Supreme Court; now, of course, that is hardly a parallel case, because the Consolidated Gas Company is a monopoly, a regulated monopoly? A. It is not a parallel case, but the difference emphasized my contention.

Q. In making up the rates — I suppose you are coming to that, and I am not going to ask many questions about it — but it occurred

to me that the cost of operating the business, it must be a very serious element of the rate charge? A. Yes.

Q. In the first place you deduct 15 per cent. from the local agents to start with? A. Yes.

Q. And what the other percentages are I don't know just now. A. Yes.

Q. And it was testified, or suggested here, it seems to me, by Mr. Babb, but I am not quite sure, that the insurance business was in the nature of a public service undertaking? A. Yes.

Q. Is that your view of it? A. No; that is not my view of it. A public service undertaking, as I understand it, is a service performed by a public corporation that owes a duty to the public, each individual of the public, and that is like a common carrier, or an inn keeper and who can be mandamused to perform its duty. You cannot do that with fire insurance. You cannot mandamus a fire insurance company to issue a policy to anybody.

Q. No; you can't compel a man to take insurance, but he has to do it? A. Yes.

Q. If he don't insure his property he has to take the chance of bearing the loss, if any? A. He has to take the risk of being careless, and that sort of thing.

Q. We are moving along in the line of accurate definition of these things? A. Yes.

Q. What I had in mind was, whether there would be more benefit to the public, or the men that insure, if the way was made easy to consolidate; then, there was along with that the regulation of the rates. And along with that the carrying of very considerable powers, counting the franchise rights, along with that was consolidation and regulation of rates, or a method of regulating the rates, might be had. Because, after all what we are interested is, is it possible to do anything in the adjustment of this matter, without doing any injustice to the corporations involved, to make insurance cheaper? A. Well, it is evident that, under existing laws, as shown by the ratios of the companies, they have not been making too much. Because I have shown what it was in the case of the six most successful companies, that they have only had this meagre return.

Q. Suppose we grant that? A. That would indicate that on the whole the rates have not been too high.

Q. As things now exist? A. Yes. Now, my point would be this, that rates, especially with the information of the schedules, and especially under the kind of administration we have here in New York city, the rates are continuously operating to reduce, because with every premium, if a man makes his risk better, if he employs watchmen, he gets so much for that; if he has an automatic sprinkler, he gets so much for that; if you put in a fire door here, and close up that elevator opening there, we will give you so much less; and the constant tendency is to reduce the fire risk in New York city. When we had a rate war some years ago everything was wide open. All these inducements of the schedule were abolished, and men said, "Why, there is no use of my keeping a watchman, I get no difference in the insurance rate. I get insurance as cheap whether I have one or not. I will not put up an automatic alarm." A good many men did that. The result of that was just as soon as the old exchange dissolved the loss ratio of the city increased right away; fires increased, and when they did occur, they caused greater loss. So much was that the case that the companies had to come together, and say we will give these men inducements to make their risks safer. As soon as they came in again, and the old schedule was re-established, their losses went down. Now, if these processes are pursued, that means a reduction of the loss risk, which is not only beneficial to the company but also to the public, and rates will go down. If they don't go down far enough, if it is seen that the loss has been so reduced that the rates can go down lower, the rates will adjust themselves to that condition, because they cannot hold these companies, they cannot keep these competing companies together, on any business, until you make them see that they can't afford to go out and write it for a less rate.

Q. What I had in mind was this: Of course your companies are offering reduced rates for improvements on property? A. Yes.

Q. Of course, these factors, which you have gone over here, the charges for commissions, etc., the insured have to pay? A. In the end they pay the expenses and losses.

Q. Is there anything that the Legislature can do by which any change in the system or in the law, what would result in a reduction of those charges, that are now paid by the individual who insures his property? That is really all the interest we have in this matter. A. I suppose you refer to limitations of commissions?

Q. That would be only one; yes. A. Of course, as a general economic proposition, anything that reduced the expenses of a business tends to reduce prices. As a general proposition that is true. But, I think, in answer to your question would depend a good deal of what is our conception of what is the proper functions of government. Now, I haven't heard of fire insurance agents getting rich; I haven't heard of their having any swollen fortunes.

Judge Bruce: You don't hear of them in the poorhouse? A. No; they leave the companies before they get to the poorhouse. But, could you say, looking over all the citizens in New York, could you say to the fire insurance agent, "You are the only man whose income must be limited by statute."

Q. Not unless by the statute you can do something for the insurance interests which will fairly and justly enable them to make that reduction. A. Yes, but it is the individual agent who is going to lose it.

Q. Is there anything that can be done; that is what I want to know? A. The only thing I think — the only way, in my judgment that the State can help along conditions in the fire insurance business is to adopt such a policy, as to make it easy to do the business, and bring in as many companies as will possibly come here. Here is a case, I cut this out of the Journal of Commerce, this is on the question of taxes: "The cost of maintaining the Michigan Insurance Department for the year ending June 30, 1910, was $22,000, while the receipts amounted to $515,000."

Now, that is going on all all over the United States. Tremendous taxation of insurance interests for insurance departments or for firemen's pensions, or for anything. Part of this goes to the school fund. Now, that all has to come out of the property. The more difficult the business is made to do, the more expensive it is made to do, the more companies that are discouraged from coming in, the more is the tendency to keep up rates. But just as soon as you make it easy to do, and less expensive to do, and as many companies are brought in as can be induced to come in, then you are going to get the maximum benefit; and you are going to have your risks written at as near cost as it is possible; you don't call for them at less than cost, because that would ruin the companies.

Q. What I had in mind was, to put it another way, that there

is no antagonism, there is no intentional antagonism between the insurance interests and the government? A. No.

Q. You find it is always expensive to both parties? A. No; there should not be any antagonism at all.

Q. A great public interest like this should be on the best terms with the government, just as in the matter of a contractor, an engineer, or an inspector, on a piece of construction, who ought to be bearable to each other? A. Yes.

Q. We have not assumed any position whatever in this matter, and if we can find anything we can do, we want to find it. You gentlemen who are insurance men and know more about it and probably have forgotten more about it than we will know, we want to get their views. A. I don't know of any panacea.

Q. We want to have your advice, and to view it from every standard. A. I don't know of any panacea, except to make the business as easy as it is possible, and to have as many companies come in to do it as posible. And you must remember that the State of New York has the lowest average rate, now in the United States.

By Judge BRUCE:

Q. It has appeared, Mr. Stoddart, in the evidence that 40 cents out of every dollar collected in premium was used in the expenses of doing the business. A. That is an exaggeration, I think.

Q. Doesn't that seem to you a large proportion? A. I have here the tables.

Q. I believe that was the evidence of Mr. Brown, this morning. A. Here are the official tables, published by the National Board of Fire Underwriters, which shows that 38 1-2 per cent. was used last year.

Q. That is, approximately. A. I will call your attention there, Judge, to this fact: that the expense of doing the fire insurance business in nine years has only increased 1-2 per cent. I don't know of any business in the country whose expenses have increased in smaller proportion. We feel this increased expense of living. We have to pay our men more; we have to pay more rent; when our men travel around the country the hotel expenses are higher, and it all tells; but notwithstanding all that, our expenses, for all the companies in the United States, in nine years, have only increased 1-1-2 per cent.

Q. Of course, the increased expense of doing business in many other departments, you know, is largely owing to the increased cost of material? A. And labor.

Q. Of course, your business does not require large expenditure for material? A. No, but it does for labor. The commissions have only increased in that time 7-10 of 1 per cent.

By Mr. HURRELL:

Q. The commissions have only increased in nine years? A. 7-10 of 1 per cent.

Q. And what report is that you are reading from? A. The National Board of Fire Underwriters' last report.

Q. What is the date of it? A. 1910.

Q. Have you got statistics there covering a larger period of time; why was nine years selected? A. Because they are bulked here in ten year periods, and the last ten year period ended 1901, and the next will take in this year.

Q. Can you figure from the table before you, the increase in twenty years? A. Yes; in twenty years there has been an increase — do you mean expenses or commission?

Q. If you have both those items there, give them. A. In 1900 it was 19 1-4th, now it is 21 1-2; that is 2 1-2 per cent. I think, during that period. The western graded commissions were adopted.

Q. That is in the twenty-year period? A. Yes.

Q. That is commissions or expenses? A. That is commissions.

Q. How about the expenses? A. Expenses last year were 38 1-2, in 1900 — from 1881 to 1890 they were 36.69; about 2 per cent., a little less than 2 per cent., since 1881.

Q. That is a period of thirty years? A. No; I gave you the wrong figures. I should have given you — the figures are right, but the dates are wrong, 1891 to 1909.

Q. That is a period of approximately 18 years? A. 19 years.

Q. So, to summarize it, and get it in my mind again, the expenses have increased about 2 per cent. in 19 years, and the commissions have increased about 2 1-4 per cent.? A. That is about right; but in the nine years last past the expenses increased 1 1-2 per cent., and the commissions 7-10ths of 1 per cent.

Q. This was your classification, was it not? A. Yes.

(Mr. Hurrell in propounding the last preceding question referred to a pamphlet, which was identified by the witness.)

Mr. HURRELL: I offer it in evidence.

(Paper received and marked Exhibit H of this date.)

Q. You were describing the statistical department, and its work, with reference to statistics, and classification? A. Yes.

Q. Besides that statistical department, there is a bookkeeping department of the company? A. Yes.

Q. Briefly describe that, as to the work it has to perform, and the amount of expenses in running the company. A. Every agent, every month, sends an account current, which shows the policies which he has issued, and the premium on each, and his commission, and any expense he has been to in the way of telegrams or exchange, and also shows how much he owes the company. He is supposed to remit in sixty days. As bearing a little on the character of the agents, and showing we get good local agents, I will mention that in the last twenty millions of premiums that we collected, we only lost $3,000 in bad debts. That shows what kind of men are in the local business.

Q. Of course, that fact — I mention so as not to have anything misunderstood — that fact would not show that the men who made up the agency staff of the company in the United States — it might show their personal honesty as to dollars and cents, but it would not indicate that they might not favor the insured a little, as against the company, in a matter of placing business? A. The agent is like any other man.

Q. You called attention to that fact for the purpose of showing their integrity, as far as their business dealings were concerned? A. Yes; and their high standing, and the interest they take in their companies.

Q. Take a company, of the size of your company, about how many men are there usually employed in their bookkeeping department? A. I suppose about 14.

Q. Now, there is one larger item, that is the item of supplies and advertising? A. Yes. Supplies and advertising, and supplies

especially, are very complicated departments of the company, and requires a great deal of work, and considerable outlay, because we have twelve different standard policies, and I think about every State has different clauses; and you can't use, for instance, the New York standard mortgage clause in Iowa without being subjected to a fine. There is a large number of cases like that, so that great care has to be used in sending out these supplies, and a large stock has to be kept on hand, so as to supply agents with the different forms. Then the advertising, such things as blotters, calendars, and other things familiar to the public.

Q. The printing department is a rather expensive department of the company? A. It is. We have a printing department in Hartford, that only prints for our own company, and it is the second large printing house in Hartford.

Q. Now, you have not mentioned the fact, that at the close of the company's business at the end of the year, you have to make out an intricate statement, do you not? A. Yes.

Q. In each one of the States you are doing business in? A. Yes. There is a blank which the State Insurance Commissioners furnish which has to be filled out regarding the information in great detail; and there are so often new requirements from the various States, something that has not been asked before, that we have to keep our books in a way to be able to show almost anything you can think of. We have to make returns by counties and towns and by cities; and we have to keep a most complicated set of book-keeping.

Q. The county returns, as in this State, is because of the law which requires the agent of a foreign company to report, and to pay a 2 per cent. tax to the local fire department of each district in which the company has property insured? A. Yes; and we have the same thing in some other States.

Q. That necessitates the keeping of these items in separate form, in the bookkeeping department? A. Yes.

Q. The annual report of your company to the insurance department is a uniform statement, is it not? Yes; but then there is generally a lot of subsidiary information that different States collect.

Q. Is that so? A. Yes.

Q. So you do report, as to some States in your annual reports, differently than you report in this State? A. Yes; as to certain subsidiary information.

Q. Unless there is something else you wish to add to what you have said, regarding what you were asked about, Mr. Stoddart, I have no more questions to ask. A. I don't think anything occurs to me.

By Assemblyman YOUNG:

Q. Are there associations of agents, which have different localities? A. There are, by States.

Q. Well, are there associations within our own State, say, restricted to counties? A. What?

Q. Restricted to counties; are there county organizations of agents, in our own State of New York? A. I don't recall that there are; I don't recall that there are. There are State associations; there is a State association of local agents.

Q. Now, I have reference particularly to Westchester county; do you know whether there is one there? A. Oh yes; there is.

Q. What is the object and purposes of that organization? A. Well, it is the local agents board; it affords a kind of office or nucleus, for the companies to communicate with.

Q. Do you know whether or not that organization attempts to discipline agents for writing insurance at a rate less than the prescribed rate? A. I do not.

Q. Is this organization, this particular one I refer to, controlled at all by the Fire Exchange? A. No; the New York Fire Insurance Exchange has no jurisdiction outside of New York City.

Q. Do you, as a representative of this New York Fire Underwriters Association, have any direct dealings with that Westchester County organization? A. No; our agents, I presume, are members of it; we do not have any dealings with the organization.

Q. I would like to ask you whether or not, on these binders you say you use, the special clauses that are put on the policies; some, for instance, the co-insurance clause; is it put on that binder? A. The co-insurance clause goes on everything in New York except furniture worth less than $2,500. All brokers understand that.

Q. The brokers here understand it, but assume that a local agent in White Plains sends in a binder to your company, will that binder show, that there will be upon the face of the policy when delivered to him, these various special clauses, like the co-insurance clause, etc.

that appears upon the face of the policy? A. I could not say whether it would in a particular case or not, because the practice of various companies all differ; but the idea of the binder is to express the provisions of the contract; and I presume that any contract here, people familiar with the business, understand that the co-insurance clause goes on everything; but in the case of an out-of-town risk, and the man didn't know whether it was put on or not, I don't know; it might be in some offices, and it might not in others.

Q. What is your idea; that in this binder appears all the clauses that ultimately will be in the contract? A. It ought to express the contract; the condition of the contract is, — all contracts in New York are under the implied 50 per cent. clause.

Q. But it does not appear in the binder does it; when the binder comes into the company it does not express these special clauses; doesn't refer to them at all, does it? A. I don't know whether they do or not, I can't be positive; I never saw one myself; that is generally taken by someone else in the office.

Q. Tell me again, Mr. Stoddart, just what the meaning of this New York Underwriting Agency is; is that the name you operate for the Hartford Company under? A. No; that belongs to our firm; we had it for 50 years; we are the agents now for the Hartford.

Q. Any other company? A. No other company.

By Judge BRUCE:

Q. Is this exception of $2,500 of furniture, which is in effect here in the Metropolitan district, applied outside of the Metropolitan district in the State of New York? A. The co-insurance clause, as I recall it, the practice is not uniform in all parts of the country. As we have to do with a pretty wide territory, I don't always remember the exact practice in one specific locality. But as far as the $2,500 insurance of property outside of New York, it would not have a co-insurance clause; furniture of $2,500 value outside of New York city would not have the co-insurance clause.

Q. You mean to say, the same exception is made in the rest of the State as in the Metropolitan district? A. I am not sure; I know what they do here; I know here furniture of that value would not have it. The idea of that is, one idea is that property of that, and

similar classes, is generally pretty fully insured without requiring them to carry co-insurance.

Q. Then your recollection is, that that co-insurance clause does not apply to furniture of the value of less than $2,500 throughout the whole State? A. Yes; that is my recollection.

Chairman MERRITT: The Committee stands adjourned to 10 o'clock to-morrow morning.

Adjourned to Thursday, December 1st, 1910, 10 A. M.

TWENTY-FIRST PUBLIC SESSION OF THE LEGISLATIVE INVESTIGATING COMMITTEE.

ALDERMANIC CHAMBER, CITY HALL.

NEW YORK, *December* 1st, 1910.

Present—HON. EDWIN A. MERRITT, JR., *Chairman.*
HON. ALEXANDER BROUGH, *Vice-Chairman.*
HON. ROBERT F. WAGNER.
HON. FRANK L. YOUNG.
HON. JAMES A. FOLEY.

HON. M. LINN BRUCE, *Counsel.*
ALFRED HURRELL, ESQ., *Assistant Counsel.*

JOHN H. STODDART, recalled, further testified as follows:

Examination by Mr. HURRELL:

Q. Mr. Stoddart, we were discussing yesterday the subject of classification? A. Yes, sir.

Q. And we developed an argument, as it were, between yourself and myself. You had just spoken to me about a summary of views against various classes of cases. Have you something there that you wish to offer as summarizing that point of view? A. Yes, I have something here that I would like to get before the Committee and so into the record.

Q. How long is the summary? A. I will read it in about three minutes. I will omit the newspaper comment, and get right down to the views of the Hartford Fire Insurance Company on this subject:

(Reading.) "From time to time it is suggested that the proper way to determine fire insurance rates for all risks is to fix

premium charges by results of the classification table. Even a prominent Insurance Commissioner has recently remarked that it may be desirable to require from companies 'a uniform classification, figured so that the experience of each company on results of each classification can be readily determined. * * * Reference to the classification would determine the justness of the rate charged.'

"This method of settling a vexed question seems plain and easy — and it is a reflection on generations of five insurance men that they have overlooked so simple a solution — provided the whole conception be not a fallacy. But unfortunately for fire underwriters, classification tables, as formulae for the making of rates, are wholly inadequate and unreliable. To an experienced insurance man the results of classification have some general and indeterminate suggestive value, but they afford absolutely no material for accurate deduction.

"There is no similarity between fire insurance classification tables and the mortality rates of the life companies. In life insurance the individual insured is a standard man. He must inevitably die, and the company knows in advance just how much it must pay when he does. There are no partial losses in life insurance. The average expectancy of life is easily ascertained, and the life actuary has exact mathematical data on which to figure his rates. Not so with the fire insurance company. Few of its risks are 'standard' or can be made so. Many of its insurants never suffer from fire, and when a claim is made, it may be for the face of the policy or for an insignificantly small proportion of the amount insured.

"In fire insurance there is no fixed basis on which to found mathematical calculations of rates. Risks are complex and seldom precisely alike. As a single instance of complexity, we may take a three-story brick building occupied on the ground floor as a drug store; on the second floor as a millinery shop, and on the third floor as a printing office. Here, in one building, are presented the distinct hazards of three kinds of risks. To what class shall it be posted? Perhaps there is not another building in the same State occupied by exactly the same combination of hazards. A company writing the stock on the ground floor

would classify its risk as a drug store. The company writing the property on the second floor would probably call it a millinery store. The company writing the property on the third floor would doubtless classify it as a printing office. Now, a frame dwelling situated next door catches fire, and the fire spreading, entirely destroys the three-story brick building and contents. The loss did not arise from a cause inherent in any of the classes contained in the brick building. What good reason is there for saying that this occurrence has any relation to the discriminatory rates which should attach to other drug stores, millinery stocks and printing offices?

"One fundamental difficulty about classification tables is the impossibility of arriving at such a division of classes as will produce results having scientific value. Every risk, naturally, has its own inherent hazard, and if each risk of a class were identical both as to building and contents, and every one was situated detached, classification tables might be devised which would approximately show the fire hazard of individual classes. But with almost every risk there are circumstances which differ from those of other risks of the same class. Some buildings are of sole occupancy. Those variously occupied have combinations of hazard differing one from the other. The number of possible combinations is infinite. No class can be made up of risks identically the same, and yet if we pile into one class all risks of a general kind, irrespective of how they may be combined with others, or what peculiar conditions they may have surrounding them, we get results obviously valueless. On the other hand, if we seek to avoid this difficulty by multiplying classes and classifying together only risks closely approaching each other as to characteristics, we have such a variety of classes and so we reduce the volume of each as to narrow the average and show abnormal results produced by transient or exceptional causes. We are between Scylla and Charybdis.

"As illustrating the infinite combinations which exist in the fire insurance risks, we may instance stocks of merchandise alone, mentioning a few of the variations important to consider when fixing rates for insurance. Some stocks are in brick buildings and some in frames; some are in buildings with shingle roofs,

others in buildings of tin roofs; some buildings have walls of certain thickness and capacity to withstand fire, others have thinner walls or thicker; some buildings are one story, some are twenty; some buildings have interior divisions in the shape of walls with openings protected, others have no interior divisions and have area varying from small to mammoth proportions; some risks are exposed by brick buildings, and some by frame, some by business structures and some by manufacturing establishments; some stocks are more subject to damage than others, and some, in case of small fires, cause total loss to the companies, because the amount of insurance carried is low. Coinsurance is obtainable in some places, and prohibited by law in others. Some establishments are clean, some dirty; some successful, some failures. Every one of these features, and many others, are important to consider when making rates. They differentiate the risks presenting them, and thousands of combinations occur.

"If rates were to be fixed by the result of classification, must not there logically be also thousands of classes to correspond with all of these variations? And if so, we further must multiply the total several times over to provide for risks of these respective kinds when situated in towns of good fire departments, in towns with poor departments, and in towns with none at all. We speak here only of stocks of goods, but dwellings and each individual class of manufacturing risks must needs be divided in like manner.

"Care, cleanliness, character and business methods are all entitled to consideration in the making of rates, but how can they be expressed in a classification table? Trapped elevators, iron shutters, watchmen, and automatic alarms, everybody knows, have prevented loss, but nobody knows how much they have prevented, so nobody can say, except as a matter of judgment, how they should affect rates. The value of these uncertain quantities cannot be ascertained by means of classification.

"If, for the sake of argument, we concede the possibility of logically establishing a rate on any class by the results of its classification, what do we then have? A rate, it is true, but after all, only an average rate. It is conceivable that it might not be the exact rate of any individual risk in the class. All will re-

member the patriotic citizen who claimed for his town the attractive average temperature of sixty degrees—made up, as was afterwards ascertained, of one hundred degrees in summer, and twenty degrees below zero in winter. If we find that the average rate of a certain class is one per cent, shall we reduce to that figure all its inferior risks, now paying more, and increase the rate on its better built, or carefully managed establishments for which we now charge less?

"One cause of loss which upsets all attempts at scientific deduction from classification is exposure. The most frequent cause of fire in particular risks is its communication from another building, near or remote. This fact vitiates all classification undertaking to prove the relative fire hazard of different classes of risks by the amount of the loss which each presents.

"But even if we had the science of classification reduced to a point where there was absolute connection between the dollars of loss shown in each class and the causes which produced such loss, we should still be without an effective guide for the future making of rates. We should have a history—that is all. Great changes are constantly occurring in methods of building, material for construction, in processes of manufacture, in growth of cities, height of buildings, and in the use of such agents as gasoline and electricity. The conditions which produce the classification figures of the last ten years have altered, and what results the change will inevitably bring, there is none can tell. By the time the results of such changes could be crystallized into classification tables, other changes would have occurred, again making our tables unreliable."

Q. Is there anything else you wish to offer on that subject? A. No, not on that subject.

By Judge Bruce:

Q. It is a fact, is it not, Mr. Stoddart, at least, I understand that you have just stated so for the record, that all fire insurance companies do have classifications of risks? Are these rates fixed by the companies on classifications? A. No, sir; I never heard of any rates being fixed on classification.

Q. What do you classify risks on? A. On judgment.

Q. Well, some risks you denominate perfect risks, do you not? A. Yes, you denominate them perfect risks.

Q. On others you denominate them as hazardous risks? A. A hazardous risk does not necessarily mean an unreasonable risk. It means a risk more likely to burn, but there may be compensatory conditions.

Q. You have others that are extra hazardous? A. Yes.

Q. How about that classification? A. I certainly didn't make our risks on that.

Q. But you charge higher for extra hazardous risks than for preferred risks? A. Yes; certainly.

Q. You do have classification and rates on different classes, then? A. Certainly, but they are not made on a classification table. Anybody would classify a powder mill as more likely to burn than a dwelling.

Q. Isn't it a fact that you do have classification? A. Yes, sir.

Q. On that classification rates are fixed? A. No.

Q. Do not the various classification rates vary? A. Yes, but they are not made on classified tables.

Q. How are they made? A. On the concensus of the best expert judges; they use every source of information they can get.

Q. Can you tell me with reference to that whether a risk is hazardous or extra hazardous, or preferred? A. A rate is made with reference to what is considered the probable chance occurrence of fire, and the extent of the damage which may follow the fire that has occurred. Some risks get on fire with less damage than others.

Q. Why itsn't it possible to carry that classification into tables and to extend it beyond the extent to which it is now carried? A. I have just explained fully in reading that article why it isn't possible.

Q. Some of the reasons leading to personal property appeal to me very strongly, but others do not appeal to me so strongly. For instance, the brick building that you refer to had three classes of merchandise in it? A. Yes, sir.

Q. Why couldn't there be a classification of brick buildings of that general character, and why wouldn't the pooled experience of all the companies with reference to such risks give you a rate

on such risks which would be directly proportionate to the amount of loss? A. Then you would charge a man who had a building containing a drug store, a printing office, and a millinery store, exactly the same rate as you would charge a man who had some other building with three other occupants with stocks which might be more or less hazardous. We are willing to give a man the benefit of discrimination. We would give him the benefit of his excellencies. We can't do it if we adopt the plan there suggested, even if that figure was supposed to be a good figure on which to base rates.

Q. Theoretically, there ought to be no variation in the risks, preferred, hazardous, or extra hazardous, should there? A. You cannot avoid it to a certain extent, on account of the conditions; if a man has got a large risk to place, it is a good deal easier matter for an agent to attend to his business and write up only one policy than it is for an agent to run all over town in the endeavor to get business on which there will be a lot of little premiums. Naturally, he has got to be higher compensated for the additional labor and time he gives.

Q. Do you give that as a reason for paying advance premiums on preferred risks? A. Yes, sir.

Q. Why is the advance premium on preferred risks paid? Because the company assumes less probable loss? A. Of course; the rate on dwellings everywhere is less than the rate on what we are referring to as hazardous business; the point that you are making, as I understand it, is that although those rates are lower, they are relatively higher than on hazardous business.

Q. That is it exactly? A. They are lower everywhere, for the reason they are not so apt to burn.

Q. The complaint which comes to us is that men who own residences feel that they are paying a proportionately higher rate than the owners of hazardous and extra hazardous risks, and that there ought to be some method, either by classification or otherwise, by which the rate should be worked out more equitably than it is worked out. I want to know if there is any method by which that could be brought about? A. I should say that you want to do a retail business on a wholesale basis. That is about what it amounts to, and I have never heard of any one as being successful at that anywhere.

Q. You mean by that that the proportionately higher rate charged for residences is caused by the proportionately smaller amount of insurance written on each individual case? A. Yes, and the larger amount of labor involved.

Q. I want to ask, Mr. Stoddart, if you will describe briefly the books local agents use. I do not mean cash books and ledgers, but books used for the business of the company, etc.? A. Each company furnishes its agent what is termed a register, on which the agent records every policy that he issues; a copy of the written portion of every policy.

Q. And copy of the description of the policy? A. Yes.

Q. And any riders the policy may contain? A. Yes, all the conditions of the policy other than the regular standard printed forms.

Q. And each company has a book in which the risks given to that company only are entered? A. Yes, that is the usual way.

Q. What is done with these books if the agency is discontinued? Do the companies claim these books as their property? A. Well, it belongs to the company and it has the right to take it if it chooses, but does not, as a practical matter, but the agent always keeps the record anyhow, and even if the company did not get the book back, they have a record in their office anyhow, so it is immaterial.

Q. All the blanks that have been stuck on the various pages have been furnished by the company? A. Yes.

Q. Do the inspectors of the company that are sent out to inspect property — taken by the various local agents who represent two or more companies — do they ordinarily have the privilege of inspecting the books of the local agents to see what he is giving to the other companies? A. Not ordinarily; an agent won't show them.

Q. That is considered by the companies as the agent's business, and not theirs? A. Yes.

Q. Will you give us your opinion, Mr. Stoddart, as an insurance man of the law which is in force in some States, commonly known as the Valued Policy Law? A. Yes. Well, there is only one argument that I have ever heard advanced in favor of the Valued Policy Law and that is a fallacy. The argument that is

advanced — and in entire good faith — is the insurance company takes the money on that amount of insurance, and when the property is destroyed they ought to pay it. That has been the argument that is fastening the Valued Policy Law on the backs of premium payers in a large number of States.

Now the question was asked here yesterday, whether it was an honorable thing for a fire insurance company to insure property for more than they expected to pay, and I have no hesitation in saying that if that is done knowingly, it is a dishonorable thing, but at the same moment I am obliged to say that any man who knowingly insures his property for more than it is worth does a dishonorable thing. Now, fire insurance companies do not want to insure property for more than they are worth, because he creates the very thing that is most hazardous to his business, that is moral hazard. They are fighting shy of over-insurance all the time. Their instructions are, to agents, to make careful inspection and they send around an inspector to inspect the business, and if they find more insurance than they ought to carry they will either cancel or demand a reduction. It is a very common occurrence to write an agent and say that we see from Dun and Bradstreet's that this man's stock is rated as only worth so much. How is it he carries so much more insurance? What is the amount of the last inventory? That is part of the system of the business, to keep down insurance below the value. Now, when a man gets more insurance than his property justifies, it is done, not at the instance of the company, but against their positivve instructions and strenuous efforts to avoid it. Now, who knows what property is worth better than the owner? What man is there here in regard to his own property who does not know better what it is worth than some local fire insurance agent in his town? Should he be heard to say that he is carrying too much insurance and paying too much insurance and he ought to have it, when he carries the insurance and insures the property for more than it is worth? Now, the element of how much property is worth is not something the company decided after the loss. If the company and the insured cannot agree what it is worth, it is referred to an appraiser, under standard conditions. It is out of the company's hands altogether. So that a man who has too much insurance is

just as blameworthy as a company that writes too much insurance, and there may be more, because he knows better what his property is worth than the company is liable to know. Now, as I said before, we were asked here yesterday, or a witness was asked about the rates in Ohio and Indiana, and counsel said, "Why is it that Indiana and Ohio are about the same States and why is it that the rate in Ohio is higher than in Indiana? Because of the Valued Policy Law?" Now, in the first place, the question involves an assumption that Ohio and Indiana are about the same. That is wholly a groundless assumption, in the absence to show that they are the same. There may be more manufacturing establishments in one State than in another to make the rate higher, or a larger number of dwellings in one State to make the rate lower. You cannot make the average, comparison of the average rate of the different States, by simply saying they are about the same. But there is another things: The question was asked, apparently on the assumption that the absence of the Valued Policy Law was the only thing that affected the rate. There are thousands of things that affect the rate, and it is quite possible that you may have an adverse effect from the Valued Policy Law simultaneously with a reduction of rates, because reduction is brought about by some other cause despite the Valued Policy Law, and if you have had not had the Valued Policy Law you would have had greater reduction; but I am glad Ohio was mentioned, because I have here some information from Ohio. Now, the insurance commissioner of a State is not supposed to be prejudiced against the State in favor of insurance companies, to say the least. In the State of Ohio, for ten years before the Valued Policy Law took effect, the ratio of loss to premiums was 39 per cent, and for fourteen years after the passage of the Valued Policy Law it was 60 per cent.

Q. That is the ratio of what? A. Of loss to premiums.

By Judge BRUCE:

Q. Well, can you say that that was due to the introduction of the Valued Policy Law? A. I cannot, but your question was whether there had been any increase; whether there was any evidence. Now, this it not, mind you, an increase of rate I am

talking about. This is an increase of fire loss. I do not say we can say, or anybody can say — it would be absurd to say that is the difference that is due to the Valued Policy Law, but it is concurrently with the adoption of the Valued Policy Law that it is shown that the fire waste of the State went up. Now, here is what the insurance commissioner of Ohio says about it.

By Mr. HURRELL:

Q. Which commissioner? A. Mr. Hahn.

Q. You are reading from what report? A. The report of the Hon. William M. Hahn, Superintendent of Insurance of the State of Ohio, 1895.

By Judge BRUCE:

Q. 1895? A. 1895.

Q. How long was that after the adoption of the valued policy law, may I inquire? A. It was adopted in 1880.

Q. Has he made any report upon this subject since? A. His successor did, and I made an unsuccessful attempt to find it this morning in time for court, but I was not able to do so.

By Mr. HURRELL:

Q. Which successor? A. Mr. Matthews, predecessor of Mr. Vorhees made a very full report on it. Mr. Hahn says:

"I fear that the heavy loss ratio in the State can be traced in a measure to some of the obnoxious legislation enacted with reference to insurance companies. The law I have in mind is the 'Valued Policy Law,' or as it is commonly known, the 'Howland Law.'

"The Legislatures of several States now have under consideration the enactment of a valued policy law, and I have received numerous letters from those States making inquiries regarding the experience of this State with such a law. I do not care to discuss this law at any length in this report, and I can best set forth my views on this question by embodying a copy of the letter which I addressed to an official of another State who asked my opinion:

'Dear Sir: Referring to the Valued Policy Law of this State, I beg to forward to you by express to-day the Ohio Insurance Report for the year 1886, and call your attention to page 9 of the report, wherein you will find that the then Superintendent of Insurance calls especial attention to this law. No statistics have been compiled since that time with reference to it. To say that fire have steadily increased since the enactment of this obnoxious law is to put it mildly. In my judgment, no man ought to receive from the insurance company a dollar more than his actual loss. No one is more familiar with the value of the building than the assured himself, and if he, in collusion with the agent, places more insurance on his property than it is worth with the idea of realizing therefrom, he ought to be made to suffer the consequences. It is an open bid for arson. The Legislature of Ohio ought to have repealed the law years ago. I do not regard it as a desirable act to have upon the statute books.

'The rates have steadily increased since the enactment of this law, clearly showing that the honest people in the end are compelled to pay for the dishonest losses.'"

By Judge BRUCE:

Q. They never have repealed it, have they? A. Never have. Now, I have here — I won't burden the Committee with it, but I have here a veto of that law, with reasons stated, showing that it was bad public policy and encouraging arson, for it would increase loss, from Governor Patterson of Pennsylvania, Altgelt of Illinois, Thomas of Colorado, Wells of Utah, Atkinson of West Virginia, Leslie M. Shaw, ex-Secretary, while Governor of Iowa, Governor of Colorado, and a remonstrance by the Chamber of Commerce. This remonstrance was adopted some time ago, but I do not remember the year, but the principle is the same.

"The Chamber of Commerce of the State of New York respectively but earnestly remonstrates against the passage of Assembly Bills Nos. 624 and 625, and against any and all other bills containing provisions of a kindred character. Both of these bills contain such provision respecting the adjustments of losses by fire insurance companies, and will, if they become legal enact

ments, tend to increase the crime of arson; to encourage the perpetration of frauds; to enhance greatly and improperly the amounts of losses to be paid by insurance companies; and lead not only to a degradation of public morals, but also to an increase of the burdens of honest citizens, by involving their property more frequently in destruction by fires caused by incendiaries, and by making it necessary to pay such greatly increased rates of premium for insurance as will be required, under such circumstances, to pay the increased losses."

By Judge BRUCE:

Q. There are 22 States of the Union that have the Valued Policy Law? A. A large number, yes.

Q. Do you know of any State that repealed it after they have adopted it? A. No, sir, I do not.

Judge BRUCE: I wish to offer in evidence, at this time, Mr. Chairman, if I may, this chart. I want to say this is a fire insurance law chart, 1910-1911.

The WITNESS: Judge, will you let me add to my answer to your last question.

Judge BRUCE: Yes, if you will wait until I mark this, so the record will be straight.

(The map so offered and identified was marked Exhibit I in evidence.)

The WITNESS: I was simply going to add that a considerable number of prominent insurance commissioners have written stock reports adverse to valued policy legislation, and that is true where the laws have been in effect, and true where the laws have been suggested, but opposed by the Insurance Commissioners. To my knowledge I never heard of a fire insurance commissioner writing anything in favor of it.

By Judge BRUCE:

Q. Well, I may say that in order to get the views of the Commissioners from some of the States which have had the Valued Policy Law for a great many years, we purpose inviting them to

come here and give their experience? A. Yes. That would be a very good way.

By Chairman MERRITT:

Q. I was going to ask, Mr. Stoddart, whether the valued policy plan would tend to make the representatives of the company more careful as to the gross amount of insurance that they would write? A. I am very glad you asked that question. I had intended to bring it out, but forgot it. Now, there is only one way to ascertain what property is worth. That way is adopted after a fire occurs. We do not have one fire for 100 policies issued. Most property is never destroyed by fire, or, of course, we could not do business at present rates. The only way we can find out how much a building is worth is to send a man that is competent to make an estimate. He goes and finds the size of the timbers used and the quantity, and how it is finished inside, and whether it is plastered or wood trim, or what kind of plumbing it is, and what kind of heating apparatus and all that sort of thing, and that is the only way to find out what a piece of property is worth. Now, if we are going to do that before a fire — we do it now when there is a fire, which is perhaps once in a hundred — if we have to do it 100 times, it would cost us to do that work — of course the assured would have to pay for it — we would have to charge him on the average about twice as much, or nearly — I won't say twice, that is perhaps an over-estimate, but ——

Q. (Interrupting.) Somebody would have to pay the cost of the inspection? A. The assured would have to pay it. The companies barely have their noses above water now. It would be simply an added expense to the business, and in order that one man may collect the value of his property, all the honest men have to be put to the expense of having an estimate made on their property, when 99 out of 100 would never need it.

Q. It seems as though the valued policy proposition on the one side, and the co-insurance plan the other way, were the two things in this whole system which brought the minds of the insured and the companies or their representatives together on the question of value of the insurance. As I get it, the co-insurance plan

makes the insured thoughtful as to whether he is getting a sufficient amount, and not an excessive one. Now, the true object, I suppose, must be to get a fair value in any case? A. Yes.

Q. Now, which one of these two systems — they are not alike? A. No.

Q. Operates most effectively to draw the attention of the people in interest to a common point of agreement. That, it seems to me, as it strikes me, is the question involved in these two plans? A. Well, of course, the co-insurance clause has a dual object. One is to have a uniform basis on which we would know how to calculate rates, and the other is to make a man carry enough insurance, not a meagre amount.

Q. Well, that involves the point you made about the man knowing the value of his own property? A. Yes, he ought to know it better than anybody else. It does not prohibit him from carrying more than 80 per cent. He can carry more, but must not carry less. He has that leeway, and any attempt to appraise value of property in advance in order that it may be on hand when the fire comes, means 99 appraisals where you have to use it once, and of course 99 expenses where you have to use it once.

Q. And do they do that when you have a valued policy; you people write those policies? A. Yes, sir.

Q. Do you make a survey? A. No, we cannot.

Q. You have to guess on it? A. We have to do it some way as everywhere else. We have to use the best judgment, and all the machinery we can, and if these sums meet the law we let it go at that.

Q. Just the way our assessors assess property? A. I do not know how they do that.

Q. Well, that is the same way they use their judgment. A. Yes.

Q. That question of assessment is a very simple matter and it may be followed out in the valued policy, only in a little different way. It is entirely with the man, except when he has a fixed idea of the value of his property? A. Yes. Well, now, he is at liberty to carry what he considers the value, provided the company do not think it is an over-valuation, such as to make moral hazard, but on the contingency of not being allowed to collect

more than it is worth. It is not to insure the full value of the property, but to indemnify him. Insurance means indemnity.

Q. In the States where you have the valued policy, you do not increase this expense you speak of? A. No, we do the business there the same as everywhere else, and if the losses are higher in consequence, it certainly reacts on the average rate.

Judge BRUCE: Is there anything further you wish to testify about?

The WITNESS: No.

Assemblyman YOUNG: I observe from this schedule that some states have this valued policy law on real estate, but apparently not on personal property? A. Why, they even go so far as to put it on personal property in Mississippi.

Q. How do you protect yourselves in a matter of that kind? A. We cannot protect ourselves. We are helpless. They have a law there about stocks of goods that does not apply where things in between are coming in and out, as in daily sales, and so on, but when it comes to household furniture it applies, so that technically—such cases never occurred, of course—but technically the law is if a man insured his household furniture for $2,500 and moved it all out but one chair, he would still have $2,500 insurance on that chair.

ALBERT W. WHITNEY, recalled as a witness:

By Judge BRUCE:

Q. Mr. Whitney, you have been sworn once, haven't you? A. Yes.

By Mr. HURRELL:

Q. Mr. Whitney, will you summarize the views, of some underwriters, at least, and on the reason and the philosophy of the co-insurance clause? I ask that question, I may say to the Committee, because of the great interest in this co-insurance clause, and Mr. Whitney has something to offer on that subject. A. Perhaps I might explain, as a basis, first, that the data which I am going to present here were collected in San Francisco in 1895. I was engaged by the Board of Fire Underwriters there

to analyze the statistics in their office, and on the basis of that to find out what rates they ought to charge for different percentages of co-insurance.

By Judge Bruce:

Q. Was that in 1895 or 1905; you said 1895? A. 1905. And those statistics formed the basis of what I am going to present here. I might also say that I have had to explain this subject a good many times to classes in the University, and I may possibly be able to be fairly successful in making the thing understood, as having had some experience in the matter. I prepared some charts. (Exhibiting a chart to the Committee.) I have assumed that we are dealing with 10,000 fires, and I have taken, for the sake of convenience, the sound value in each case as $100.

By Senator Wagner:

Q. What do you mean by sound value? A. The real value of the property. Now, underwriters commonly compute their premium from $100 of insurance, and so I have assumed that property is worth $100, which, of course, where it is worth $10,000 the principle would be exactly the same. Now, the basis for this whole thing lies in this series of figures here, which I will explain.

This (indicating) means that out of 10,000 fires it has been found from statistics—the statistics that I got out of the offices out there—on about 83 per cent did a damage of less than 10 per cent of the value, of the sound value. That less than 6 per cent did a damage between 10 per cent and 20 per cent of the sound value, and about 3 per cent did a damage between 20 and 30 per cent of the sound value, and so on down, and about 2 per cent did a damage between 90 and 100 per cent of the value. That is to say, 194 fires out of 10,000 that were about nearly total.

I might say, before I go on, that this is for a special class. This is for the class of frame mercantile buildings. Frame mercantile buildings, and this is the experience that was found. I might just, in passing, have you notice that that is very much similar to the mortality table that is the basis for rates in life insurance. In life insurance the table tells the number out of 100,000 persons that are born — the number that will be one

year old; the number that will be two years old; three years old; four years old; and so on. Now, this can be looked at in the same way.

Out of 10,000 fires that start, 8,293 live to do a damage of less than 10 per cent of the value. 576 live to do a damage of between 10 and 20 per cent of the value, and so on. Just as the mortality gives the time of extension of a man's life, so this gives the time of extension of the fire in terms of how much damage it does.

This second column gives the average loss of these fires. The fires that did damage of less than 10 per cent — that is to say in this case less than $10 on the average, destroyed $1.80, a sum I think very small indeed. Of those that did a damage of between $10 and $20 the average was $14.20, and so on down. Of those fires that did damage of between 90 and 100 per cent, most of them were almost total, or 99½ dollars was the average.

Now, on the basis of this, it becomes very simple to compute the loss that the company would suffer. First I might say that here is the total loss on those 10,000 fires, because there are 8,293 losses of $1.80 each. That makes $14,927.40. There were 576 losses of $14.20 each. That makes $8,179.20, and so on down, and finally 194 fires, almost total, or $99.50 making $19,303, and that adds up to $81,139.60. That is, the total loss on these 10,000 fires, assuming that the sound value in each case was $100.

By Senator WAGNER:

Q. This (indicating on chart) is less than 10 per cent? A. Those do a damage of less than 10 per cent of the value.

Q. And the next less than 20 per cent? A. Between 10 and 20 and so on. Now, next I will explain what the company would have to stand for in the way of payments if a man was carrying on one of these risks $10 of insurance. The sound value is $100, and he is carrying only $10 of insurance.

By Chairman MERRITT:

Q. That is, the companies carry 90 per cent and he is insured for 10 per cent? A. No, there is no co-insurance about it.

Q. You haven't got to that? A. No.

By Judge Bruce:

Q. The property is insured 10 per cent of its value? A. Yes; the property is insured for 10 per cent of its value.

By Mr. Hurrell:

Q. That is the supposition? A. That is the supposition. As a matter of fact I am supposing every one of these was insured for 10 per cent of its value.

Q. This table now is 10 per cent? A. 10 per cent. Now, you see from the 10,000 altogether, 8,293 of those suffer a loss of $1.80. That makes that total, of course, not because there is $10 of insurance.

By Judge Bruce:

Q. That makes that — by that you mean $14,927.40? A. $14,927.40. Now, that is (indicating) the remaining 1707 fires on those remaining of this class. Those were — all those (indicating) after the 8,293 — the loss on each one of those was over $10, but as the insurance was only for $10, the company is not liable, of course, for more than $10; namely, the face of the policy, and on those (indicating) it only had to pay $10 each, and so pay so much (indicating).

Q. That is $17,070? A. $17,070, making altogether the amount that the company pays on those losses, $31,997.40.

By Mr. Hurrell:

Q. That is, on those losses that are insured for only 10 per cent? A. Yes. Now, then, I have supposed that one risk out of every 100 risks results in a fire. That is not important, but I might as well make that supposition. That is reasonable. As a matter of fact I think Mr. Stoddart just now hinted at that, and he supposed that was one risk out of every 100 has a fire. Then 10,000 fires would represent 100 times that many claims, or I mean risks; that is to say a million risks.

Q. That is, assuming that the basis of $100 of insurance applies on a risk? A. Well, that is not any good. 10,000 risks; have one out of every hundred resulting in a fire. Then 10,000

fires would mean a million risks. Now, then, if the company has to pay on those million risks $31,997.40, the amount it has to pay on each risk is this (indicating), which is about 3 cents. Now, that is 3 cents for $10 worth of insurance; or, that is, at the rate of 32 cents per hundred. Of course, 3 cents for $10 of insurance is at a rate of 32 cents per hundred. That, then would be the rate that the company would have to charge. Of course this does not include expenses for doing the business. It is just what might be called a net rate for doing the business. Now, this is the same kind of analysis here (exhibiting another chart), where I have assumed that the insurance carried was $20 instead of $10, and I might just hold this up, and show you the difference here. I will hold it up so you can see both of them. You notice that these 8,293 losses of $1.80 each are paid. Now, those 576 losses of $14.20 each are paid, but then the remaining losses, 1,131 ——

Q. (Interrupting.) That is $100? A. Are all paid at $20, and so the total amount paid is $45,726.60. Now, the assured for each one of these million risks will then pay 4.6 cents for $20 of insurance, but that is at a rate of 23 cents per hundred. That is, of course, gotten by simply multiplying that by 5.

Well, now, then, notice that even in a case where $10 of insurance is carried the man gets it for 32 cents per hundred. In case where $20 of insurance is carried he gets it at 23 cents per hundred. That is to say, he gets it at a lower rate. Of course he pays more for it but he gets it at a lower rate.

Now, I have done exactly the same thing; of course, I have not carried it out here on this chart for each one of these, but we have now jumped up to the case where he is carrying 80 per cent.

By Mr. HURRELL:

Q. That is to say, Mr. Witness, the rate where a man is only insured for 10 per cent—I will withdraw that question. The cost to the company where a man is only carrying 10 per cent of insurance is greater than where he is carrying 20 per cent of insurance? A. Yes. The cost per $100.

Q. Yes. (No answer.)

By Chairman MERRITT:

Q. In this assumption, I understand, you are not taking into consideration anything the company has spent to carry on its business? A. No, nothing of the kind.

Q. This is just the fire loss? A. Yes. The companies only have to add a loading for expenses. This is just exactly the way the life insurance companies figure their net rate, and then they put on the loading for operating expenses. This is just like it. This is the same thing, on a basis of a man's carrying 80 per cent. In that, there are 8,293 losses amounting to $1,274; and we come on down here and you see it is reproduced down as far as 49 losses of $75 each, making $4,448.

By Judge BRUCE:

Q. No, you have the wrong figures; $3,675. A. Amounting to $3,675. But these last two bunches the others; the loss on each of these over $80, so the company is only liable for $80. There are 236 losses of $80 each. That makes altogether that the company has to pay, $18,880. The loss for each risk is then $7.7-10 cents for $80 insurance, and that at the rate of 9.6 cents per hundred dollars. Is that clear?

Now, then the next chart here is a chart that summarizes all that. This chart simply gets everything together. If 10 per cent of insurance is carried the rate is 32 cents; if 20 per cent is carried the rate is 23 cents; and the rate, you see, falls as the percentage of insurance increases. So that when a man is carrying full insurance, he gets a rate of 8 cents, while, if he is carrying only 10 per cent of insurance he has to pay a rate four times as great, 32 cents. Of course, that does not mean that he pays more money in this case; because, in this case, he gets ten times as much insurance; so in reality he gets ten times as much insurance, but he pays four times as big a rate.

By Mr. HURRELL:

Q. He pays four times less rate? A. I mean he pays one-quarter of the rate.

By Chairman MERRITT:

Q. For ten per cent he pays 32 cents, and for 100 per cent he pays 8 cents? A. Yes. Now, you can see why it is important to know the amount of insurance that a man means to carry. If the rate is based on his carrying 80 per cent of insurance—if the rate the companies charge is based on his carrying 80 per cent, and therefore, the rate is based on this, and then a man goes to work and only carries ten per cent, of course he is beating the company, because he ought to be paying that rate (points to chart), when he is only paying this (points to chart).

On the other hand, if the rate is based on his carrying 80 per cent, and he is carrying a hundred per cent, he is getting the worst of it; because it is due to him that he should have a rate of 8 cents, and in reality he is paying 10 cents. As a practical consequence, the companies should grade their rate according to the amount of insurance that a man carries. Now, the co-insurance clause is simply a scheme for putting it up to a man to be responsible for the amount of insurance he is going to carry. It is like life insurance. In life insurance you fix the rate, you determine the rate by the man's age, but you do not examine him to find out how great his age is; you put it up to him, and ask him what his age is, and make him responsible. In the case of fire insurance, you put it up to him to say how much insurance he is going to carry. In life insurance, if a man lies about his age there is a certain penalty; in fire insurance, if a man does not live up to what he says he will carry, the penalty is he will have to be considered as carrying part of the insurance himself.

By Judge BRUCE:

Q. From which I take it, Professor, that your deduction is that the co-insurance clause is equitable and just? A. Well, yes, I should say that.

Q. So far that the co-insurance clause is equitable and just as between insurer and assured; but is it equitable or just that that should be fixed at the arbitrary percentage of 80 per cent; shouldn't it be fixed upon the percentage of insurance which a man carries; if he carries 10 per cent, 20 per cent, 30 per cent,

40 per cent, or 50 per cent, the rate should vary in proportion to the amount of insurance he carries, rather than be fixed at the arbitrary percentage of 80 per cent? A. Yes, I think that expresses my feelings about it. It certainly is true that a man's rate should vary to the amount of insurance he carries, and it does seem to me rather arbitrary that the companies should insist on his carrying just exactly 80 per cent. Why shouldn't he be allowed to carry 30 per cent, for instance, if he wants to; but in that case, his rate should be higher. As a matter of fact, in some parts of the country, that is done. My understanding is that at the present, on the Pacific coast, a man is allowed to decide how much insurance he will carry; if he takes a co-insurance clause he is allowed just what percentage he will have in his co-insurance clause, and the rate is graduated. As a matter of fact, this work was done for the Board of Fire Underwriters out there, to find a base for the graduation of the rate.

Chairman MERRITT: For that very system?

The WITNESS: For that very system. And it is also done in the Dean schedule, I think, that is used in the middle West. My recollection is that they allow a man to choose what percentage he will take. I might say, that in the mercantile schedule of Mr. F. C. Moore, so far as a classification of risks goes, is the basis, as I understand, for use in the fire insurance exchange here; that in the original form of that schedule, various percentages were allowed.

By Mr. HURRELL:

Q. So that I may understand this, I want to ask you, you may term it the philosophy of this, is that if a man is insured for only 10 per cent of his value, that he stands out of 10,000 fires, a chance of being one of those 8,293? A. Yes, he stands 83 chances out of a hundred of being one of those.

Q. That is eighty-three chances out of a hundred, substantially? A. Yes.

Q. So that if one man, on a sound value of a hundred dollars, is only carrying an insurance of $10, and another man is carrying an insurance of $100 on it, the man with the $10 insurance is more apt to get money from the company than the man with the

$100 insurance; that is, to get the full amount of his insurance? A. Yes.

Q. So, that is the reason why the man with only ten per cent insurance should pay more money, that is, pay a greater rate for his insurance, because he is liable to cost the company more money than the man with the $100 insurance? A. Yes. Here is a table I have not shown to the Committee that really shows that point. Suppose we add to these risks I talked about, buying $10 worth of insurance; if each of those had decided he wanted another $10 of insurance, the cost to the company of that extra $10 would be this. (Points to chart.) The cost would be this; and if he decided he wanted another $10, the cost would be this. (Points to chart.) This chart shows the cost of each successive $10 of insurance, and the cost of the last $10 of insurance is only 1.843 as against a cost to the company for the first $10 insurance of 3.09740. Of course, the reason being, there are so few fires in which the last tenth of insurance is called upon to contribute.

Q. Assuming that is true, that the man that is only carrying a small percentage of insurance should pay a greater relative rate than the man who is carrying a larger percentage of insurance, is it true that the operation of the co-insurance clause automatically levels off each insurer, as against the other on the question of rates; that is to say, if a man is carrying a co-insurance clause, he guarantees that he won't be beating his neighbor in the clause, because he says if he carries 80 per cent, "I will keep my property insured for 80 per cent," so that he gets the same rate as any other man in that class? A. Yes.

Q. Now, let us assume, for instance, that a man has a fire, and he only has 10 per cent, is only carrying 10 per cent instead of 80 per cent, then he does not come under the 80 per cent co-insurance clause, he does not get all of his loss? A. No.

Q. So that the result is, is it, that a man who has undertaken to carry 80 per cent, and doesn't do it, when he has a loss, he finds that he does not get all of the insurance in his policy? A. No.

Q. So that the net result is, as between that man and the man carrying the full value that he has agreed to carry, that justice is done between those two men, by the operation of this clause? A. Yes.

Q. Now, I have tried to summarize it, and ask you if that is true? A. I think so, as I understand it.

Q. That is, the operation of the co-insurance clause levels up the inequalities? A. Yes.

Q. So that each one is carrying the same burden of insurance? A. Yes. I didn't quite finish what I might have said in answer to the question Judge Bruce asked me. I can finish it now. He asked me, I believe, whether I considered a co-insurance clause to be an equitable thing. I think it is theoretically. As a practical matter, it is a very bad thing for the man who does not understand it.

Chairman MERRITT: What do you mean by that?

The WITNESS: I mean the man who takes a policy.

By Judge BRUCE:

Q. Do you mean a bad thing or a dangerous thing? A. A dangerous thing. It is like any other good thing that is a dangerous thing in the hands of a person who does not understand what he has got.

Q. Just explain what you mean by that, Professor? A. I mean that a man who has a co-insurance clause in his policy, requiring him to carry 80 per cent of insurance, and then he does not realize what that demands of him, and he allows the value of his property to go up; for instance, he receives — he is a merchant, perhaps, and he receives at Christmas time, we will say, a lot of new goods. Why, don't you see if he gets caught with a partial loss, and he has not at the same time raised the amount of insurance, he is caught by the operation of the clause.

Q. You mean by that, that if he is not watchful and prudent, and keeps 80 per cent of insurance, why, in case of a partial loss he is liable to suffer a loss he did not anticipate? A. The co-insurance clause is a dangerous thing for people who do not understand it, and a dangerous thing for people who do not keep close track of their business, so as to follow the amount of their property with proper insurance.

Q. With 80 per cent of it? A. Yes. But it is a good thing for a careful man who looks after those things. I say it is a good thing, because in that way he is able to get advantageous rates.

He does not help to pay for the man who keeps — the man who keeps his property insured up to 80 per cent does not help to pay for the man who wants to carry only 10 per cent of insurance, and who should pay a higher rate.

Q. Do I understand you to say that the co-insurance clause is a good thing for the man who appreciates its force and value, or that the co-insurance clause, 80 per cent, is a good thing for the careful man? A. A co-insurance clause.

Q. But in your judgment, Professor, wouldn't it be more equitable and just, as between the company and the assured, if the co-insurance clause was based upon the amount of insurance carried, 10 per cent, 20 per cent, 30 per cent, or 40 per cent, rather than fixing it at the arbitrary amount of 80 per cent? A. That seems to me so, but of course I don't know the practical reasons for requiring 80 per cent. There may be some practical reason that will explain why that is better than leaving it for the man himself.

Q. Theoretically, it seems more equitable and just that it should be fixed on the basis of the amount of insurance, doesn't it? A. Yes, it does.

By Mr. HURRELL:

Q. Notwithstanding that it is fixed at 80 per cent, the leveling off process occurs, so that all people with the 80 per cent clause in, stand upon an equal footing, as to the amount of the rate? A. Yes.

Q. And the only chance is for a misunderstanding as to the meaning of it? A. Yes, but it is much better — suppose a man had a property worth $10,000, and he carried $3,000 insurance on it, and that is all he means to carry on it, it would be much better for him to have a 30 per cent co-insurance clause than to be under the 80 per cent co-insurance clause, and then get near his personal loss.

Q. In what cases is it easily conceivable that a man would only agree to insure his property for twenty or thirty per cent of its value? A. Of course, if a man has a property that is very nearly fire proof, with a very small chance of its burning up com-

pletely, he naturally would not want to insure it for its full value, or anywhere near its full value.

Q. And the operation of the eighty per cent clause will make him pay the insurance on the value, or contribute to the loss, if he has only twenty or thirty per cent? A. It would. I don't know whether the 80 per cent clause applies to fire proof buildings or not. Of course, if it did apply, he would have to carry that.

Q. The operation of this 80 per cent clause, Mr. Whitney, is to ordinarily better the moral hazard of the risk, is it not? A. I don't see that it does.

Q. If a man is partly his own insurer, he is apt to take care of conditions surrounding his property a little more than if the whole burden was on the company, isn't he? A. You mean having the 80 per cent rather than the 100 per cent?

Q. I was just thinking of the situation, where it is up to the man himself when he is increasing his stock of goods, to take care of his property, because if he does not carry the full amount of insurance, of course, he is an insurer himself of some part of it? A. I do not think that affects the moral hazard, because there is nothing in the 80 per cent clause that prevents over-insurance.

Chairman Merritt: Anything that prevents over-insurance of property enhances, to a certain extent, the moral hazard?

The Witness: Yes.

Senator Wagner: What do you think of the valued policy as distinguished from the co-insurance policy?

The Witness: I am hardly in a position to judge in any but a theoretical way about it. I have not had any practical experience. My feeling about it is, that it is not a wise policy. But that is not based on any direct evidence of its workings. But only on largely — while I have seen the reports that Mr. Stoddart has referred to, and I have thought about the thing in rather a theoretical way, and that is the conclusion I have reached, that it is not a good thing.

Judge Bruce: That is all, Professor.

Chairman Merritt: Are you going to put the charts in evidence?

Mr. Hurrell: I will put them in later.

The Witness: Just one point more that may be spoken of.

This is based on experiences in San Francisco, but did not include any conflagration. It was before the big conflagration there. Now, in case of a conflagration, this would be changed a little; to every one of these would be added a certain rate, which would be the conflagration rate.

Chairman MERRITT: There would be a greater number of total losses?

The WITNESS: Yes; for instance, if you would take this conflagration, you would have to add on a rate of ten per cent, so that means ten per cent per hundred. That ten cents per hundred would be for a possible conflagration. Then you would have to add to every one of these ten per cent. I thought I might just explain that matter. The difficulty I might say about ascertaining these rates is largely there, that you cannot exactly determine what the conflagration rate is. But the trouble is inherent in all rating, because the conflagration hazard is something that is indeterminable for any kind of rating.

Judge BRUCE: That is all. I will call Mr. Robb.

WISSIS O. ROBB, called as a witness, and sworn, testified as follows:

Examination by Judge BRUCE:

Q. What is your name? A. Willis O. Robb.

Q. Where do you reside? A. I reside at Richmond Hill, in the Borough of Queens, New York city.

Q. What is your business? A. I am manager of the New York Fire Insurance Exchange.

Q. How long have you held that position? A. I have held that position nearly five months.

Q. Prior to that time what was your experience in insurance? A. My record in insurance is, eleven years as adjuster and special agent for a large company in the central west, mainly in Ohio.

Q. Will you give the name of the company, please? A. My first year and a half, or thereabouts, I was with an insurance adjusting company as adjuster; then for nine and one-half years I was special agent and adjuster for the Liverpool, London and

Globe Insurance Company in Ohio, and adjacent territory; for seven years thereafter I was general adjuster for the United States branch of the Norwich Union Fire office, and combined the duties of loss department manager for the United States Department, and adjuster of their New York city losses, my headquarters here in New York. For eight and a half years after that I was secretary to the Committee on Losses and Adjustments of the New York Board of Fire Underwriters, and manager of its loss and adjustment bureau here in New York city, and last July I became manager of the New York Fire Insurance Exchange.

Q. What is the New York Fire Insurance Exchange, what does it do, and how does it do it? A. It is:

1. ORGANIZATION AND MEMBERSHIP.

The New York Fire Insurance Exchange is a voluntary and unincorporated association formed pursuant to a permissive article in the by-laws of the New York Board of Fire Underwriters allowing of the organization of tariff or rating associations by members of the board. It was organized in March, 1899, and comprises in its membership officers of local fire insurance companies and managers and head agents of out-of-town companies. Substantially every fire insurance company admitted to do business in the State and operating in New York city is represented in one or more of these ways in the Exchange membership. There are about fifty-five "company members," *i. e.,* companies represented by officers or general managers and almost the same number of "agency members," *i. e.,* head agents representing one or more companies in New York city.

2. AREA OF OPERATION.

The territory of the Exchange is the so-called Metropolitan District, or substantially the present city of New York, exclusive of its suburban or outlying portions; in other words, the Borough of Manhattan, that part of the Borough of the Bronx lying west of the Bronx River, the Borough of Brooklyn, Long Island City, in the Borough of Queens, and the American Dock Stores and piers in the Borough of Richmond.

3. OBJECTS.

The Exchange has two general spheres of activity—expenses and rates. It exercises control over the compensation to be paid to brokers and to certain classes of agents, and it fixes either specific or minimum rates for the writing of risks, separately or by classes. Strictly speaking, it does not do anything else. As a means and incident of its control over brokerage, the Exchange maintains a list of certified brokers, *i. e.*, brokers to whom it has issued certificates entitling them to receive commissions on business placed with its members, and as a means and incident of its control over rates it prepares and prescribes a few forms of policy and a considerable number of special clauses or riders, the use of which is made requisite in order to obtain the benefit of the minimum rates for the particular property dealt with. But both these forms of activity are, as indicated, wholly incidental to the two chief objects of the Exchange organization. The Exchange is as far as possible from exercising any control or influence over the division of premium income among its members or over their sharp and unceasing competition for business through their several and widely varying underwriting policies, methods of cultivation,, preferences as to lines and classes, etc. And it has no provision or machinery whatever for keeping in touch with or exercising any influence upon legislation, either municipal or state.

4. EXPENSES — COMPENSATION OF AGENTS AND BROKERS.

The Exchange exercises no control, either as to form or amount, over the compensation paid by companies to their head agents or managers, whether in Manhattan or Brooklyn branch office manager, who must be located in the Borough of Manhattan north of a line formed by West Houston, Elizabeth and Grand streets, or the Boroughs of the Bronx or Brooklyn, and who are authorized to write only certain classes of risks—dwellings and private stables, churches, schoolhouses, and store-and-dwelling risks—are compensated by commission, only such commission being the 25 per cent which they, in turn, pay brokers

for the classes of business they write, plus and "over-riding" or excess commission of 12½ per cent, which later is sometimes partially commuted to a contingent commission on net profits of the business written.

To brokers, four different rates of commission are payable on as many different classes of risks:

(1) On risks rated on the Restricted Sprinkler Schedule, 5 per cent. There are only about 150 risks yet rated under this schedule.

(2) On risks other than such as may be written by branch offices, and lying between Chambers and Fourteenth streets, in Manhattan, 10 per cent.

(3) On risks outside the congested district above indicated, and not of branch office class, 15 per cent.

(4) On branch office risks, as above defined, 25 per cent.

To become a certificated broker, one must be regularly engaged either exclusively in the insurance business or in real estate, or closely allied employments, and must pledge himself not to make any rebate to any division of commissions with any assured or any person not a broker, nor to accept more than the allowed commission, or place risks with offices not members of the Exchange, unless sufficient insurance thereon cannot be obtained from Exchange members. The primary object of the provision against rebating commission is, of course, to prevent discrimination among policyholders and the scandals and embarrassments that follow it. About 7,500 brokers hold Exchange certificates at the present time.

5. RATES — THEIR OBJECTS.

The objects of the Exchange in fixing the rates of premiums to be charged for risks or classes of risks in this territory are three:

1. To provide such a premium income from the aggregate of fire underwriting operations in the Metropoiitan District as will in average years be sufficient to pay the losses incurred in that district, plus the specific expense, and a pro rata share of the general expense of doing the business, and yet leave margin

enough both to pay a fair profit on the capital and surplus invested and to provide for the accumulation of a reserve against extraordinary or conflagration losses not occurring in average years, and not to be treated as exclusively a Metropolitan Contingency District.

2. So to apportion this levy, or insurance tax, among the various classes of risks as to make each class come as near as possible to the payment of its own losses and the contribution of its proper proportion towards the expense, profit and reserve accounts.

3. So to distinguish between individual risks of the same class that:

(a) proper credit will be given or proper charge made for all variations above or below the standard of the average risk of the class, according to the best judgment of underwriters and fire protection experts;

(b) every property owner can be made to see just what it is that operates, and how far it operates, to make his insurance cost more or less than his neighbors in the same business, so that the suspicion as well as the actual practice of unfair discrimination may be removed, and

(c) every proper kind of pressure and inducement may be brought to bear in the direction of the improvement of the fire hazard and the reduction of the fire waste.

6. RATING METHODS — MINIMUM RATED RISK.

It is estimated that of approximately 300,000 buildings in the territory of the Exchange, 250,000, or five-sixths of the entire number are, with their contents, exempted from schedule rating altogether, and left in what is called the minimum rated class, *i. e.,* subject to a minimum or flat rate based wholly on the character of the occupancy. In the main, these are the risks of the branch office class above described, on which the highest brokerage is payable, viz.: dwellings, churches, schoolhouses, private stables, store-and-dwelling risks, except that in practice all the churches and all apartment dwellings above a certain limit of height or area are specifically rated, though still deemed to remain in the branch office class; while certain kinds of grade floor or basement

occupancy take what would otherwise be a store-and-dwelling risk out of that class altogether, and out of the branch office class as well. These minimum rates are based on the classified experience and general judgment of underwriters as expressed in a long series of such ratings made in New York and elsewhere, and which have been subject to constant modifications as conditions and underwriting results have changed. On such risks usually no additional charge above the class or minimum rate is made, even for exposure, though the Exchange does, on application, make separate computations of exposure charges for minimum-rated risks.

7. RATING METHODS — SCHEDULES.

There remain about 50,000 buildings, comprising all the important mercantile, manufacturing and general hazards which are rated, and constantly re-rated as changes of conditions, occupancy, construction or equipment occur, under one or other of several schedules or detailed tables of charges and credits in use. Before the four principal schedules employed in the making of specific rates by the Exchange are the following:

1. The green schedule, so called, sometimes called the non-fireproof dwelling, apartment and tenement house schedule. It is used for rating homes, hospitals, asylums, clubs and schools; also stores and dwellings which are over the minimum height and area, and would generally be used for rating in a building two or three floors of which are devoted to dwelling occupancy, and with the first and second floors used for very light manufacturing business.

2. The merchandise schedule, or as it is commonly called and described on Exchange rate cards, the general schedule. It is generally used for rating the stores and dwellings which are under the limit of height and area, but of grade floor occupancy, taking them out of the minimum rated class. It is also used for rating livery stables and garages.

3. The Exchange (or universal) mercantile schedules (fireproof and non-fireproof). These schedules apply primarily to risks occupied throughout for business purposes, as the buying

and selling of goods, or light manufacturing, including all kinds of clothing manufacturing. Heavy printing establishments, wood-working and metal-working are not rated on this schedule, but on the manufacturing schedule, described below, while a mercantile building with two or more floors occupied for dwelling purposes would also not be rated on the mercantile schedule, but on the green schedule.

4. The manufacturing schedule. This begins where the Exchange mercantile schedule leaves off, embracing all serious manufacturing hazards, as distinguished from the light manufacturing classes, such as clothing. Even the clothing manufacturing concerns in Brooklyn and outlying sections are commonly rated on the manufacturing schedule, and all frame risks having even light manufacturing occupancy are rated on the same schedule, never on mercantile schedule.

In addition to the four chief varieties of schedules described above, there are some fifteen special schedules limited to single and peculiar classes of risks, as theatres, churches, hotels, lodging houses, breweries, etc., and including the interesting schedule known as the restricted sprinkler schedule, which provides exceptionally low rates for risks protected by high-grade automatic sprinkler equipments not located in the congested districts nor seriously exposed, and not occupied for certain classes of manufacturing less capable of being brought under positive control by automatic sprinkler action.

In practice in the handling of the work of schedule rating, the Exchange has made a division between the mercantile schedules and all other schedules, grouping the latter together under the common designation of "general hazards." This is because of the greater complexity and minuteness of the mercantile schedule. As a matter of fact, however, the only broad line of demarkation is that between the manufacturing schedule and the special schedules of manufacturing classes on the one hand, and the mercantile and what may be called sub-mercantile schedules, including the merchandise and the so-called green schedule, on the other; and as so divided, the total number of rated risks on the cards put out by the Exchange would roughly fall into these two general classes in something like equal proportions.

In construction, the various schedules of all the foregoing classes employed by the Exchange differs chiefly in the number of separate items that enter into consideration in computing the separate ratings and in the relative values given in them to the same items because of the wholly different hazard constituted by like physical features when found in risks wholly unlike in occupancy and general construction. But they agree in starting from some characteristic key or base rate, to which additions, each in itself usually extremely small, are made to cover all the classifiable hazards of defective construction and fire protection, the presence of dangerous substances, processes and conditions, exposures, etc.; and from the total thus reached deductions or allowances are made for any features better than those assumed in the standard risk of the class dealt with. Usually, the final rate thus reached is differentiated by definite though varying methods to make (1) a building rate, and (2) a contents rate that will cover the great damageability of the various kinds of insurable contents. The final rate reached on a schedule-rated risk may be the result of adding or subtracting as many as thirty or forty items or as few as three or four, according to its class and its particular features. Theoretically, the total of items on the Exchange mercantile schedule exceeds 125, but it is never possible to find and deal with them all in the rating of any one risk.

Only long experience qualifies a rater for his work. There are men in the rating department of the New York Fire Insurance Exchange who have followed that specialty for periods varying from ten to thirty years. And underlying a rater's work is that of the inspector or surveyor, who must have an equipment of thoroughness, expert knowledge and ability to deal with a multiplicity of minute details that is by no means easy to find or develop.

All schedules for rating are originally worked out backward, of course. That is to say, their aim being to produce a proper rate for the average or typical risk of the class dealt with, and then to make that average rate automatically vary in due proportion for risks below or above the average of the class, it follows that any schedule must be experimentally worked out by repeated tests and changes until its results do in fact secure these

objects as nearly and as generally as possible. And the work of mending schedules never stops. Changed conditions, processes and methods of construction and any apparently permanent changes in the fire waste of a class or locality, even if not connected with discoverable changes of physical hazard, all require constant revision and readaptation of rating schedules. This work to some extent originates with and is carried on by the working members of the Exchange staff or its management. But it is under the control or direction of a standing Committee on Rates. This committee is composed of practical underwriters who are in constant and close touch with the whole subject, and who from their own experience and that of their associates, and from their dealings with wide-awake brokers and trade representatives of all kinds, are specially fitted to constitute, as they do, a court of appeals for the hearing of all questions affecting the application of existing schedules to peculiar individual risks, and a board of advisers to the Exchange itself, as to the introduction of new schedules or the modification of old ones. No new or modified schedule is put in force until after it has been tentatively applied to a considerable number of risks of the class for which it is intended, and the results have been closely studied with special reference to the exact effect of its specific charges and credits in differentiating good and bad risks.

8. RATE CARDS AND CABINETS.

The results of the rate-making work of the Exchange are embodied in printed rate cards which are distributed in daily instalments to Exchange members and filed in their rate cabinets for constant use. So many changes in rates are made necessary by removals and changes in occupancy, construction, equipment, etc., that each member that operates throughout the whole Exchange area receives some 50,000 rate cards per annum, exclusive of cross-reference and other subsidiary cards. The expense of the Exchange for printing and distributing cards alone is nearly $60,000 per annum.

9. DISTRICT CHARGES, ADVANCES, ETC.:

Local conditions in various parts of the Exchange area, which involve or include bad streets, deficient water supply or pressure

or fire protection, generally inferior construction, etc., are made a ground for certain district charges or advances which are removed as required improvements in those conditions are completed. Usually these district charges are included in the published card rates for rated risks, while in the case of the so-called minimum rated risks, they are added " at the counter," that is to say, by each company or agency when accepting the risk, to the published tariff of minimum rated risks.

Another special feature is found in the existence of the so-called " San Francisco Advance," made in 1906, specifically to cover an admittedly greater conflagration hazard than had been previously provided for. This was afterwards practically all removed from the congested district of Manhattan when the high pressure water supply system was installed, just as the older so-called district advances in the down-town parts of Brooklyn were cancelled on the same grounds, but the " San Francisco Advance " still applies to considerable classes and areas and is always treated as a " counter addition " to the printed card rates found in the cabinets of Exchange members. Credits for high pressure and other protection, in like manner, operate to produce " counter deductions " from card rates on certain classes of risks in certain areas.

10. ALL RATES BASED ON CO-INSURANCE REQUIREMENT:

The Exchange rates are based on a stipulated ratio of insurance to value, and presuppose the attachment to every policy of either the 80 or the 100 per cent. average (co-insurance) clause. The requirement of the maintenance of a stipulated proportion or amount of insurance was early discovered to be a necessity by marine underwriters, the pioneers in the entire field of insurance, and this practice has been applied to fire insurance in Europe from the beginning, although it was first made universal and compulsory in this country by the manufacturers' mutual insurance companies whose operations began thirty or forty years ago. Practically all students of the subject admit that there is no more efficient means of distributing equitably the cost of insurance among different individuals or property owners than the

invariable requirement of the attachment of a co-insurance clause to all policies.

11. SOME INCIDENTAL RESULTS OF THE WORK OF THE EXCHANGE.

FIRST: IMPROVED FIRE PROTECTION AND WATER SUPPLY.

There can be no doubt that the practice maintained from the first by the Exchange of including in its rates a charge for defective water supply and fire protection and making prompt allowance for betterments in these respects, has contributed largely to the improvement in fire protection, both public and private, that has been so marked a feature of the recent history of New York. When the high-pressure service was installed in certain areas, first in Manhattan and then in Brooklyn, the Exchange made prompt reductions in its rates, although its members fully expected that the reduced risk of a conflagration would be offset in large part by increased water damage to stocks, especially during the experimental period of the first year or two—an expectation quite justified by the outcome.

SECOND: THE RAPID REBUILDING OF NEW YORK AS A FIREPROOF CITY.

The Exchange has done almost more than any other agency both to improve the quality of so-called fireproof construction, by charging for defects, and to encourage by its very low fireproof building rates the multiplication of standard fireproof structures and the breaking up of great areas of conflagration breeders. The difference between properly and improperly protected girders, columns and beams is one that architects and owners have largely learned from underwriters, whose knowledge has been put before them in the persuasive form of discriminating rates. It is now a common practice for architects to submit plans for new buildings and improvements to the Exchange for comment and criticism, and in order to secure advance information as to probable rates.

THIRD: RELATION OF THE EXCHANGE TO TRADE ASSOCIATIONS, ETC.

The office of the Exchange has always been open for conferences with committees or representatives of trade associations of all

kinds in order to secure a free interchange of information as to hazards, trade conditions and the makeup and results of the rate-making schedules applicable.

FOURTH: STORAGE WAREHOUSE SCHEDULES, FORMS AND RULES.

No better illustration can be found of the way in which the Exchange combines the work of careful discrimination of hazard with that of safeguarding the public as well as the underwriters from the unnecessary threat of fire than in its well-known "alphabetical list of charges for merchandise in listed storage charges" and the rules and forms accompanying it. Not only are separate rates made for 1,500 kinds of commodities likely to be found in such stores, but regulations are framed and enforced against the storage of articles of high hazard in the same premises with non-hazardous merchandise.

FIFTH: MISCELLANEOUS.

Among the kinds of improvements brought about by Exchange methods, and of which no mention is made by classes in the foregoing paragraphs, may be included the removal of untidy (dirty) conditions; installation of metal receptacles for ashes, waste, etc.; vacuum exhausts for shavings and wood dust into vaults; installation of water casks and pails; the provision of metal gas connection in place of rubber tubing; restriction and regulation of gasoline; correction of defective electric wiring; installation of chemical hand fire extinguisher; the enclosing of stair, elevator and other openings between floors; protection of window openings; the discouragement of large and unbroken areas and excessive heights; the introduction of fire walls; the installation of automatic sprinklers; brick construction in place of frame; fireproof construction in place of ordinary, etc., etc. Not less than 16,000 improvements of this kind are made annually and allowance granted therefor in rights by the Exchange. Collateral to this the Exchange gives information to the public as to how improvements shall be made, furnishing without charge (unless the undertaking be a very large one, calling for an unusual amount of time and attention) information and instructions as to the "installation of fire pails;" "receptacles for ashes, rubbish and other

waste;" "watchmen and clock service;" "fire resisting appliances;" "chemical hand fire extinguishers;" in addition to which reams of manuscript instructions are given out in answer to special inquries every year. Copies of the schedule of his rate may be had by any property owner for the asking, and he is thus able to see exactly how his rate is made up and how reductions can be obtained by making specific improvements.

In these and other ways the Exchange is doing, with intelligence, equity, and an effectiveness that only its control over rates renders possible, a work for the public good that no other public or quasi-public body can do in its stead. That work has been improving in quality during the whole eleven years of the existence of the Exchange. The theory and practice of schedule-rating are still far from perfect. Their development, both in New York and elsewhere, has been and continues to be very rapid, but it has certainly not yet approached its limit at all closely. Meantime it must be borne in mind that separate, independent and competitive rate-making by fire insurance companies is no longer possible, and would be against public policy if it were. So long as "flat" or "judgment" rates were thought good enough to work on, competition between companies and outrageous discrimination among policy-holders were the rule. But schedule-rating, which has for one of its principal objects the abolition of favoritism and discrimination, is rendered possible only by co-operation, the pooling of experience and of the expense of the inspection and rate-making machinery, and rigid adherence to the delicately adjusted results reached.

The three principal objects which the public and the fire underwriters have a common interest in promoting rank thus:

1st. The reduction to the lowest possible limits of the aggregate fire waste. No difference how or by whom it is paid, it is an enormous and irrecoverable public loss;

2d. The reduction to the lowest point consistent with security and efficiency of the loading for expenses, reserves and profits which insurance companies must include in the premiums they collect; and

3d. The distribution of the aggregate fire insurance tax (reduced to a minimum in both these ways) among individual risks

and classes of risks with all the equity that the best underwriting experience and intelligence render attainable, and with no favoritism, or suspicion of favoritism, among individual policy-holders.

And fire underwriters can contribute their share toward the accomplishment of these common objects — or any of them — only by such co-operative action as the New York Fire Insurance Exchange and other underwriting bodies more or less similar to it embody and exemplify.

Q. Now, Mr. Robb, when any person or company becomes a member of the New York Fire Insurance Exchange, they must sign an agreement, the copy of which I hold in my hand, must they not? A. Yes, sir.

Q. And this is the agreement to which you have referred in the first paragraph of your answer to the previous question? A. It is.

Q. I notice that after each paragraph of this agreement or each section, there is certain printing here in large-faced type; what do they contain? A. For convenience of reference, in the printing of this edition of the agreement there had been inserted after the respective and proper paragraphs of the agreement itself, and in heavy-faced type to distinguish them, any rulings or interpretations of those respective paragraphs which have been made by the Exchange or its committees, or its manager, in the last eleven years.

Judge Bruce: I offer the agreement in evidence.

(Received in evidence and marked Exhibit J.)

Q. Is the list which I show you a list of the present members of the Exchange? (Hands paper to witness.) A. I think that list requires two or three corrections.

Q. Otherwise, it is correct? A. Otherwise, it is correct.

Judge Bruce: I offer that list in evidence.

(Received and marked Exhibit K.)

Q. Now, Mr. Robb, calling your attention to section 1 of the agreement; one of the principal objects and purposes of this organization is for the determination of adequate and just rates of premium, is it not? A. Yes, sir.

Q. Within what territory has this organization jurisdiction? A. What is called "The Metropolitan District of New York City;" that is to say, the Boroughs of Manhattan, of the Bronx west of the Bronx river, of Brooklyn, of Long Island City in the Borough of Queens, of the American Dock, Stores and Piers on Staten Island; the congested and non-suburban portions of Greater New York.

Q. Are there stock companies doing business within that territory who are not members of the Exchange? A. I think there are no stock companies admitted to do business in the State of New York, and operating under that permission in this area, that are not members of the New York Fire Insurance Exchange.

Q. And what other insurance companies are there within that territory doing a fire insurance business? A. Other than stock companies?

Q. Yes. A. There are no New York State Mutual Companies doing business in New York city since the retirement of the so-called Mutual Fire. There are three mutual companies of other States admitted to do business in New York, but all of them are represented by agents in New York city, and through those agents are members of the Exchange.

Q. Then, are there any fire insurance companies, stock or otherwise, doing business within the territory in which this Exchange has jurisdiction, other than members of the Exchange? A. No, sir; except inter-insurers, and Lloyds; no regularly organized insurance companies.

Q. Are there any Lloyds authorized to do business in this State? A. I don't know.

Q. Do you know of any Lloyds that are licensed to do business within the territory which you have mentioned, which I denominate correctly, do I, if I call it "The Metropolitan District?" A. That is the proper designation. I don't know that there are any.

Q. Now, what do you mean by inter-insurers? A. Inter-insurers, I understand to be, associations of merchants, who in a more or less unorganized form, issue to themselves the equivalent of mutual policies.

Chairman MERRITT: Make inter-party agreements?

The WITNESS: Yes.

Q. Do you know how many organizations of that character are operating within the Metropolitan District? A. I don't know of more than two or three of any importance.

Q. Then, outside of these, the members of the New York Fire Insurance Exchange do exclusively all the fire insurance business done in the Metropolitan District? A. Practically all the companies are members of the New York Fire Insurance Exchange.

Assembyman YOUNG: When you speak of jurisdiction, what do you mean, Judge?

Q. When you speak of jurisdiction of the Fire Insurance Exchange, you mean that it operates only within the bounds of the territory which you have mentioned? A. That is the area of operations; its jurisdiction is it has authority in that area to do certain things for its members as their representatives.

Assemblyman YOUNG: You speak of authority, from what source do you get the authority?

The WITNESS: The agreement.

Assemblyman YOUNG: Authority by agreement?

The WITNESS: Certainly.

Assemblyman YOUNG: Not a legal authority?

The WITNESS: If the agreement is legal, the authority is legal. They have no statutory authority.

Q. Now, as I stated before, it appears from section 1, that one of the principal objects and purposes of this organization, under this agreement, is to determine adequate and just rates of premium; that refers, of course, to the territory within what you have denominated the Metropolitan District? A. Yes, sir.

Q. Now, will you tell me how this organization fixes the rates, or how it determines an adequate and just rate of premium within that district? A. Your question has, perhaps, two departments; how it ascertains what they should be, and how it puts them in operation.

Q. Yes, I was endeavoring to pursue the language of the agreement, which has perhaps in that way hampered my question. A. First, as to the ascertainment. The Insurance Exchange when it was organized inherited many lists and schedules of previous ratings in force at different times in New York city and elsewhere.

Q. Now, may I interrupt you there to inquire, prior to the

organization of the New York Fire Insurance Exchange, what previous organizations were there which exercised functions similar to this organization? A. There had been an interval of about a year and a half during which there was no kind of tariff association. Previous to that, there had been in succession two or three rating organizations; one called the Metropolitan Association, and one called the New York Tariff Association, I believe. I am not quite clear as to their titles.

Q. Did they succeed each other, or were they competing associations? A. They were never in existence, two of them at one time. They were successors.

Q. Do you know when the first was organized? My object being to go back and, if possible, ascertain at what date the companies did combine for the purpose of fixing, as it is termed in the agreement, just and adequate rates? A. I cannot give you a positive answer. It is my understanding and belief that the New York Board of Fire Underwriters, which was chartered in 1867, an organization modeled upon that, to a large extent, exercised the functions of a tariff rating association along with its other duties until a time, perhaps, in the early 70's, that was in that decade when it ceased so to do, abandoned it, and limited itself thereafter to the functions which it now performs. From that time there have been a more or less continuous succession of rating organizations, with occasional intervals between the operation of two of them.

Q. Have you the dates sufficiently in mind so that you could give us when those intervals were when there was no rating association operating in this Metropolitan district? A. The only date of which I am sure is the period of approximately eighteen months before the date of the organization of the Exchange in the spring of 1899.

Q. Now, before you proceed further with the question which I first propounded, what other organizations are there which regulate rates in the State of New York outside of the Metropolitan district? A. My understanding is that the three rating organizations operating in New York State, other than the New York Fire Insurance Exchange, are the Suburban Fire Insurance Exchange, that has its office in New York, but governs the terri-

tory lying around the Metropolitan district, including the suburban parts of the greater city, some of the counties near by. The New York Fire Underwriters' Association, or State Board, as it is generally called, with headquarters at Syracuse, which operates in all the rest of the State, except the city of Buffalo, which has a Board of Underwriters of its own, local to that city, and performs the functions there of a tariff rating association.

Q. Now, continue, Mr. Robb, and tell me how your organization ascertains and fixes the rates; and may I ask you to go into it as fully as possible? A. And, may I ask your leniency in view of the fact that my management of the Exchange is five months' old only; that previous to that time, I had no official connection with it at all, and only a general knowledge of its plan of operation, and its details of work. Although resident in New York, and actively engaged in insurance matters, and personally acquainted with all of the members of the Exchange, and of its staff, I did not concern myself with its operations until the first of July of this year. Therefore, I could not always give you as full and trustworthy an answer as my predecessor.

Q. Who was your predecessor as manager of the Exchange? A. For the six months preceding my election, or my assumption of the managership, a member of the staff of the former manager, and a member of the present staff, was manager pro tem., Mr. C. R. Hardy. His term was from the middle of December until the first of July. Previous to that, for ten years, the manager was Mr. Henry E. Hess, who in December resigned to become vice-president of a fire insurance company.

Q. What company is he connected with, may I inquire? A. He is not now connected with the company; he went with the Phoenix of Brooklyn, which was afterwards merged with the Fidelity Phoenix.

Q. Now, you had started off to say that prior to the organization of the Exchange, they inherited certain schedules; will you continue from that? A. In addition to the schedules and list of base rates and charges for defects and credits for improvements, are items of fire protection which had been accumulated by the individual companies and by the preceding rating organizations of underwriters in this territory, the Exchange had at its com-

mand the so called universal mercantile schedule which had been put out and tentatively applied in various towns as long ago as 1882 and 1883, perhaps, and that has been undergoing modification and experiment ever since. It admitted in great part of the rating of what are called mercantile risks. This universal mercantile schedule was put into use, and the modified form of it has since been called the Exchange mercantile schedule. I may add that that had been in a large measure employed for that work by preceding organizations here in New York.

Q. Is that known as Moore's schedule? A. It is often referred to as Moore's schedule, because he was chairman of the committee that prepared it. The data was on hand, and we worked over suggestions obtained from various quarters, schedules for the rating of different classes of property, perfected in accordance with the revised information so obtained, and in each case applied tentatively to a considerable number of risks, to see whether the results had the appearance of equity; and after they were applied the same work of modification in the light of experience continued, and it is continuing. So, that at present, there are four major and perhaps fifteen minor schedules employed in the rating of different classes of property within the area of operations of the Exchange. All of them are more or less in a state of flux. The have base rates, which change from time to time. There are in the mercantile schedule about 1,260 kinds of merchandise, each of which is given a separate rating, and added to that we apply the base rate of the unoccupied building. In addition to that large number of mercantile classes, there are perhaps 150 classes of base rates for different manufacturing lists. New classes are inserted as new kinds of business require the companies to insure new risks. And subdivisions of old classes are made as specialization in any kind of business develops. I hardly know, sir, how far to go into that question without further inquiry.

Q. What do you mean by a basic rate? A. Well, it has more than one meaning. There is a building base rate. For example, in the building up of the universal or Exchange mercantile schedule, that base rate is supposed to have taken into account the general character of New York city, as a city full of insurable

risks; its fire protection; its average lay out of water mains; its fire department and the record thereof; its fire record for many years. That is the unspecified general base upon which conditions are made for specific defects or hazards, and from which deductions may be made for unusually favorable conditions. That base rate in the Borough of Manhattan, in the Exchange mercantile schedule, is ten cents; one-tenth of one per cent.

By Chairman MERRITT:

Q. That includes the cost of doing the business? A. I fancy, sir, that is the base rate itself, and in every charge that is added to it there is somewhere a portion of all of the general limit element of cost of doing the business, and the cost of paying the losses, and the moral hazard as well as the physical hazard. I cannot say in which of these elements appear in the items of the schedule.

Q. You cannot analyze the rate as they analyze the rate of a life insurance policy? A. I cannot; nobody can.

Q. It has not been built up that way? A. It has been built up that way, but not upon the same kind of statistics. There are no tables that correspond closely to the mortality tables of the life underwriters in our business.

By Judge BRUCE:

Q. How long has that base rate been in existence, one-tenth of one per cent? A. The base rate for New York?

Q. Yes. A. It is older than the present Exchange, I think.

Q. Just what does it take into consideration? A. After I say it takes into account all the things that I specifically itemized, and conditions and deductions had been taken into account, I have given you my best answer.

Q. Can you give me just what those things are that it takes into account? There must be something. I want to know whether it is arbitrarily fixed? A. It may be said to take into account what underwriters believe the total hazard would be worth.

Chairman MERRITT: What you might term the natural hazard?

The WITNESS: Including the moral and physical hazard, the expenses of doing business and everything else upon a risk which was in every respect perfect, or up to a minute standard of excellence, and located in a favorable situation for fire protection, fire department service, and all that, that its location in Manhattan gives it.

By Judge BRUCE:

Q. Do you know how long prior to the organization of the present Exchange that this rate was in existence of one-tenth of one per cent? A. I do not.

Q. Do you know whether it has varied from decade to decade or not? A. Well, it is a matter of very few decades that it might have been in existence, it cannot be twenty years old.

Q. Who first fixed it? A. I don't know.

Q. Or determined it? A. I don't know; the general business adopted way back in 1882 or 1883 was twenty-five cents to any special or local in New York; that had an average applicability as the framers of the schedule believed, and cities of the first-class were known not to deserve so high a base rate charge; cities of inferior construction and equipment were given a higher base rate when the schedule was applied in various localities.

Q. Well, has the improvement of the fire extinguishing facilities of the city of New York, referring both to the department and also to the water system, improved from year to year or say from decade to decade? A. Absolutely yes; relatively to the increased hazard of growing congestion and multiplication of new hazards, I am afraid not.

Q. Has the recent introduction of the high-pressure mains operated to appreciably decrease the risk of fire loss? A. My judgment is that the effect of the introduction of the high pressure or separate fire main service in New York city, comparing it with conditions existing just before it came into operation, which conditions have been steadily growing worse without our having charged for them, was this: It substantially removed from the area in which that installation was made the conflagration hazard, which is approximately five per cent of the total premium income collected in a period of forty years in the United States. It did

not do any more than that, I think, so far as concerns the risk of contents or stocks of merchandise in that district; I think it did more than that for buildings; it reduced the fire waste by ordinary fires of buildings.

Q. Has there been any reduction made in the base rate by reason of any of the improved facilities for extinguishing fire, including the high pressure mains that have been installed in Manhattan? A. The reduction in the final rate of many classes of property was made, and that deduction, being by percentages, of course operates upon the base rate; we do not change the base rate at the beginning of our figuring; in effect, the base rate and every item coming into the rate has been so treated in many classes of risks where the high-water service went into effect.

Q. To what extent has there been a reduction made to which you refer? A. Upon a very large proportion of the business in that territory a reduction averaging between 10 and 15 per cent, I should think, sir.

Q. How do you take into account a moral hazard in applying a base rate, say in fixing a rate upon any particular schedule? A. The underwriter who fixes or tries to fix either an average final rate for a definitely outlined class, or a base rate which contributes to make up that final rate, does not know when he studies the fire record what proportion of the fire waste that he finds in that class is due to moral hazard and what is not; nor does anybody else. It is there, and it gets taken account of in the figures we make based upon that fire waste, and if the increase of the moral hazard element should in fact without the operation of any other clause tend to increase the aggregate fire loss, that would be reflected in the rates. In a particular risk there is no such thing as charging for the moral hazard, as we charge for defects of construction, exposure, protection or occupancy, but it is there somewhere; if it is not in the base rate then in either one of the charges that go on every risk of the class; probably it is both in the base rate and in the specific charges.

Q. Now, in this base rate is included also the cost of doing the business, isn't it? A. Yes, sir; the cost of doing the business and the cost of paying the losses are everywhere through the schedule.

Q. How is this New York Fire Insurance Exchange supported? A. About two-thirds of the cost of the maintenance of the New York Fire Insurance Exchange is defrayed by an assessment made upon the companies which are members or are represented by agency members of the Exchange, and that assessment amounts on the average to a little under six-tenths per annum on the premiums written by those companies in the area of operations of the Exchange. The other one-third approximately of its cost of maintenance comes from the fee of $10 each charged the brokers upon the issue of the certificate which entitles a broker to be paid commissions upon business he places with members of the Exchange.

Q. The cost of maintenance of the National Board of Fire Underwriters of New York, the Board of Fire Underwriters and the New York Fire Exchange with all their multiplied activities, for instance, surveying, employment of engineers, inspection, maintenance of the fire patrol, and all that, enters into the base rate, does it not? A. Oh, surely, into the base rate and into every charge on the schedule; do not distinguish too closely between the base rate and these items of charge as to their makeup, with respect to the proportion of moral hazard or expense account, or loss paying account; those great elements run all through the schedule through the base rate down to the last addition made.

Q. That is, in the last analysis it is the assured who bears the expense of the maintenance of the National Board of Fire Underwriters and the New York Board and the Fire Insurance Exchange and all these multiplied organizations, is it not? A. Yes, sir.

Q. Now, will you take up from that, that is, from the base rate, how the actual rate—I don't know that my terminology is good—how the actual rate is built up? A. I have furnished to counsel for the Committee a copy of each of the schedules used in the Exchange in its rating operations, and I have indicated in this brief oral statement the general character of the risks which are rated on each of these schedules; there is a wide variety among them; the most intricate and complicated, of which, the most detailed schedule, is that known as the merchantile schedule, and in practice it would not be impossible to find a risk rated on that

schedule which has a rate made up of thirty or forty minute items or charges or deductions, say thirty operations, in reaching the result; there are other schedules which rarely have more than three or four; there are schedules broadly defined and numerically limited classes among which the individual risks do not vary nearly so greatly as they do in the mercantile class. In general in all these cases, and especially in the merchantile schedule class, the base rate is set down from the surveyor's report, and I could add, that back of the rater's work is the written report of the inspector or surveyor which goes in very full detail; four different forms of inspection or survey used in the Exchange for different classes of risks, and they are believed to contain, if properly filled up, all the information necessary for the rating department. Assuming that information to be there, the rater taking the base rate fixed for him in the schedule, finds much of the different defects of construction or exposure or protection or occupancy hazard occur in the inspection report on that risk; he has almost no discretion as to the amount he will charge for any one such defect; that is as carefully printed in the schedule for his guidance as is the base rate. Then there are cases where some little latitude necessarily must be given because rates cannot be made to fit perfectly any preconceived schedule or classification. First the minute details of the construction of the risk are taken into account and a charge carried out for all such defects or details. After that the question of the occupancy of the risk is treated in the same way, and of course the difficult risk in New York is what is called a co-tenant or multiple occupant risk so that a great many hazards in the mercantile districts have to be dealt with in the rate of being one building.

Q. Now, if I may come back a moment to the base rate; who in the Exchange has the power to fix the base rate? A. The Exchange itself; nobody short of that.

Q. That is, it must be done at a meeting of all the members of the Exchange, and be voted upon at such meeting? A. Yes, sir; ordinarily upon the recommendation of the rate committee which passes on such things first, but neither the manager nor any of his staff, nor the rating committee, can change a base rate or charge in a schedule until it has been discussed and voted upon by the Exchange.

Q. Now, who has power to fix the credits and the charges that are attached to any particular policy? A. In the main those charges are printed and are as absolute as the base rate and as unchangeable by any power short of the Exchange itself. In many cases a limit will be found, say ten to twenty-five cents, of discretion for a certain kind of defect. Even those in practice have been reduced to absolute figures, so that a well recognized kind of departure from the requirement will get a ten cent charge, and a more serious one a twenty-five cent charge, although on the face of this schedule the rater has discretion. That has been done because it has been found unsafe to leave any more discretion to any individual in rating and individual risk than can be avoided.

Q. Are there any risks in New York written at the base rate? A. The possible minimum for a building of so called fireproof construction and office occupancy, is five cents; of mercantile occupancy, ten cents; there are buildings rated at those respective minimums.

Q. What proportion would you say? A. A very few; modern buildings put up in compliance with the most recent requirements of fire engineers and building department and the city underwriters, and from the time the foundation stones were laid, headed towards the lowest possible rate obtainable, they get that rate, a few of them.

Q. Well, is there such a thing as a risk at the base rate, that is one-tenth of one per cent? A. Yes, sir.

Q. What proportion are written at the base rate? A. A very few; very few indeed.

Q. Extraordinarily few? A. Of mercantile buildings; when I use base rate and you use ten cents; we are dealing with the mercantile base rate.

Q. Yes. A. Of course the rate on dwellings of ordinary brick construction is a flat rate, and bearing no unsafe features there are no additions to that base rate, which again is a ten-cent rate. Thousands of dwellings are written at that rate in New York city.

Q. Now, take dwellings up first. In the event the owner of a dwelling house applies for insurance, who has the power to fix charges upon the risk, to make charges? A. To make any additions?

Q. Yes, I mean by charges, additions? A. If there were a reported unsafe condition here, or a serious exposure of which the company applied to for insurance had knowledge, it would ask the Exchange to inspect and fix the charge for that defect; otherwise, it would refer to the hand book and write that at the minimum rate promulgated for dwellings. As this brief shows, while our work is mainly rating by schedule numerically, very much and the largest number of risks in New York are written at the minimum or flat rates. The whole class of stores and apartment houses below a certain height and area, and the ordinary store and dwelling and not unusually hazardous in a store occupancy, all these are written by the thousand at a flat rate without any schedule charges.

Q. But if any company which is about to issue a policy upon a residence finds that there are any defects there for which the Exchange charges additional premium, they must add that to the rate, must they not? A. They are expected to.

Q. Well, supposing they do not do it, then what happens? A. There would be no penalty if they omitted or failed to ask for that inspection, we should have no knowledge of it. If they did ask for that inspection and the charges were promulgated, they would be in violation of their agreement if they ignored that charge.

Q. Now, give me just some item that makes an additional charge, say in a dwelling, in order that I may give you an example which I would like to have you explain, that appears in your hand book? A. Exposure and known defect of heating apparatus are perhaps the two most prominent that would operate in affecting the minimum rate for a dwelling.

Q. Here is an agent going to issue a policy upon a residence that there is some defect in the heating apparatus in, and he does not add that to the rate; if that comes to the knowledge of the Exchange, what happens? A. Well, unless there had been a report from the heating department of the New York Board of Fire Underwriters of an unsafe condition, based on the inspection of that department, the Exchange would have no knowledge of that condition; it would not issue any card or warning fixing that rate at a higher figure than the minimum because of that unsafe con-

dition, because it would not have any knowledge on which to base it.

Q. But if it has knowledge? A. If it has it will so notify by mailing a rate on that risk, it will specifically rate that risk with a notation in regard to the unsafe condition, so much charge on it.

Q. These charges for defective conditions or exposure, are they fixed or have they changed from time to time; I mean your additions to the rates? A. Well, they are changed in individual cases, but the exposure table is a very elaborate table which takes into account the height and occupancy and construction of buildings and everything else, and certain per cents of their own rates are incorporated into the rate for the exposed risk.

Q. Are the credits that are given or deductions that are given fixed in the same manner? A. Yes, sir.

Q. And that is also an elaborate schedule? A. Yes, sir.

Q. That is applied by the agency who writes the risk, or the company rather which writes the risk? A. No, it is applied in the office of the Exchange, and the resulting rate is promulgated on a card which goes to all members and goes in their card cabinet of rates.

Q. Assuming that a charge has been made for a defect in the condition and that condition is remedied, what happens then? A. The owner or his broker or the company with which he habitually places his business notifies the New York Board of Fire Underwriters who sent their inspector from the so-called heating department to verify that report to see that the specifications which he has already filed for its correction have been complied with, and if he finds the improvement made it is reported to the Exchange and the charge removed. If it is a minimum rated risk that means that the card goes out of the cabinet at once and the agents are free to write that risk at the minimum rate in the hand book.

Q. Suppose his policy has been already written and he has got his policy and his rate fixed, does he get a rebate if he removes the defect? A. He does, and unfortunately he does not pay the additional premium if the defect develops after the issuing of the policy.

Q. Does that date back from the time when the defect was

actually remedied, that rebate? A. It dates back from the promulgation of the card which ought to have proper attention given to the matter by the assured himself, it ought to be within a day or two.

Q. That is what I want to develop. How long does it take if a man acts with promptness and diligence for him to get the benefit of his remedying a defect? A. I should think that from the time of filing his notice with the New York Board, that he has or thinks he has corrected such a defect would take, when the inspection would be made and the report transmitted to the Exchange office and the new rating promulgated, three or four days.

By Chairman MERRITT:

Q. You said, Mr. Robb, I think you said, that every effort was made to prevent individual authority making or changing the schedule rates, did you not; that is, you do not give any discretion to individual members of the Exchange or brokers, that is what I understood you to mean, in regard to any of its ratings, but they are things that must be passed on by the Board. A. They do not give themselves any discretion. They have vested that power in the Exchange as their agency for that purpose.

Q. What is the fundamental reason for that? A. We are coming to reasons a little earlier than I had anticipated. The question is large.

Judge BRUCE: We will get to that.

Chairman MERRITT: I supposed we would get to it but I did not want to have it overlooked; you won't forget that if I should.

Judge BRUCE: No.

The WITNESS: I shall not forget it if the counsel and Chairman do. I would say that at the suggestion of counsel made a day or two ago I asked the chief of the Mercantile Schedule Rating Department to make a copy of the existing schedule rating on the so-called Park Row or Syndicate Building in which I was advised the members of the Committee ordinarily take their luncheon and which is visible from the windows of the City Hall, and he has done so, and as he is very much more expert in the details of such rating than myself, I should be glad to have him answer any questions about it.

EDWARD R. HARDY, called as a witness, being duly sworn, testified as follows:

Q. Where do you reside, Mr. Hardy? A. Manhattan.

Q. What is your business? A. I am connected with the New York Fire Insurance Exchange.

Q. In what capacity? A. I have charge of the Mercantile Schedule Rating Department.

Q. Will you explain to the Committee, for its information, how the schedules or ratings for any specific building or risk that you may have to take into account are made up; and the actual operation of the Exchange? A. The sample that I have with me is what is known as the Park Row Building, 13-21 Park Row. The rater is elaborately furnished by the surveyor, the details as to the construction of the building.

Q. The rater and the surveyor are employed by the Exchange? A. Yes, they are employed by the Exchange.

By Chairman MERRITT:

Q. You say complete data; what do you mean by that? A. The height, the area, the construction of the building, the occupancy, floor by floor, the finish, practically every item that enters into the building.

Q. It also refers to the construction? A. Yes, and to the location, risk of exposure, and so forth.

Q. Does it refer to the age of the building? A. No, we never bother with that. He then uses this schedule simply as you would use a measure. He starts with the base rate or the key rate, ten cents. That is fixed by the Exchange. The next item is item No. 286, which asks if the building is of skeleton construction, if it is a modern iron building. That makes them charge, if it be such, two cents. We measure all additions to this base rate of ten cents. The next item here is for non-protected iron work, and that largely depends on whether it is iron or steel, and the portion of the building that is unprotected, that is, that has interior columns which might be unprotected and exposed to the direct action of fire. In the case of this building, it happens to be a charge of 3.8. It would be seven and a half in a building

which was unprotected. This building ranks as an office building, and so that charge is made. All these items appear in the schedule book. The next item is the height of the building. I am passing over some that do not belong to this building. The building is charged for if it is more than eight stories high, the charge being graded as you go from the eighth story up. That building, I see ranks as a 25-story building, against which the rate is 30.5. The next item is the floors, the wooden floor, a wooden floor surface laid on concrete, and the charge is two and a half cents. The next charge is for the elevators, for which a charge of one cent is made. For additional stairways, a charge of one-half cent is made. For other floor openings, such as chutes, and shafts, for openings of that character a charge of 8.3 cents is made. There is also a certain defect in one of the upper stories, or rather, a wooden chute, I believe, for which a charge of 1.3 cents is made. Where there are office tenants no charge is made; but for tenants who have merchandise, or for a restaurant or drug store, you will see there are four in that building, you will see that we make a charge of 1 cent. That makes the total of that column 60.9 cents. I have merely carried the building through first. We have taken up now all the construction features of the building, and have only included one cent charge for the mercantile tenants there. There is then laid against the building a charge for the tenant who is considered the most hazardous. In this case it is Mr. Haan. There is a restaurant there, of course, and he has a large kitchen and heating apparatus, and so forth, and it is rather more hazardous than in the case of small drug stores or office occupancies. That charge is 3.8 cents. We then have a total charge of 64.7 cents. We then reach the point in the schedule where deductions are in order. That is a series of items, and they are measured in the same way. This building has a deduction for wiring. It has a deduction for a stand pipe, five per cent — automatic — that is, a stand pipe without any supply, merely a connection on the sidewalk for the fire department, five per cent. Then they have a water supply tank on the roof. They get an additional allowance of one per cent. Then it is considered as occupied above the first floor for offices, and the allowance for that is ten per cent. There are roof hydrants

which would be of advantage in fighting exposure to fire if they had one. There is one per cent allowance for that. They also have a watchman and clock service, the allowance for which is two and a half per cent. They have what is known as an auxiliary fire plant, that is, a fairly effective force on their own premises for fighting fire, and the allowance for which is ten per cent. The total allowances, carrying out these percentages, amounts to 19.7, and deducting that from 64.7 leaves a total of 45 cents. There is then added the exposure charge, which is the danger of this building being attacked by fire from the outside, which amounts to 15 cents, giving us a total of 60.6 cents. The building is then subject to co-insurance, and operating as we do under the eighty per cent. disbursement clause, as eighty per cent. co-insurance is carried, that deduction amounts to 66⅔. This makes the rate on the building 20.8 cents.

By Judge Bruce:

Q. Now, is the same method pursued practically in fixing the rate on every building in the Metropolitan district? A. Similar, but not so minute; this is fireproof, and with no fireproof buildings it applies to about 9,000 buildings.

Q. That fairly illustrates the method by which rates are built up from the base rate? A. Yes, sir.

By Senator Young:

Q. Tell us about the deduction for co-insurance? A. That is 34.4 per cent of the final rate.

By Judge Bruce:

Q. Then this class of buildings get the same treatment and the same rate? A. Yes, all fireproof buildings.

Q. Now, will you take up the method of the rate on contents? A. We take as a starter 60.9, with nothing added for tenancy, except one cent, merely the excess charges added, as we term them. I will take as an illustration a tenant occupying a sub-basement to the second floor. This is Mr. Haan's restaurant. We started at 60.9 cents, and then in this book, The Universal

Mercantile Schedule Book, they are given the occupancy which is chargeable to the different classes of business. There are 1,267, and some others that have been adopted in ten years' experience in using it. Mr. Haan is classified as a restaurant herewith under 1401. That is the restaurant is 15 per cent in the first column, and a charge of 70 in the second column.

Q. What do you mean by the first column? A. The first column represents the hazard of the business. That is the danger of this occupancy starting a fire. The second column largely represents the susceptibility of his stock to damage if a fire should occur, and is placed at 70 cents. In this territory the use of this scale was adopted. The old Committee did not use the full amount of these charges, but used a percentage, which would in fireproof buildings the one quarter of the first column charge, and all other buildings would be three quarters of the second column charge. So, for the susceptibility of damage we get 52.5 cents. And then there is an added quarter, 3.8 cents which is another minor charge there. There is evidently a sub-tenant in that building that has a higher first column charge or is more susceptible than Mr. Haan. That is, there is a tenant in that building more apt to cause a fire. For that certain proportion we have 2.3 cents.

Q. That falls upon every other tenant? A. Yes, as graded in separate floors. A stock located in the sub-basement, the basement, the first and second floors, is spread over the four floors. Naturally, in the sub-basement, it is not as desirable as the first floor. There would be an allowance, if it was wholly on the first floor; but in the sub-basement and basement, there is what we call a floor charge. That amounts to 3.8 cents. That makes the sum totals $1,233. The reductions which have been made, as on on the other side, for office occupancy, above graded, is 5 per cent. There is a watchman, clock and stand pipe. There is a special allowance to this property of 5 per cent for fire pails, making a total allowance of 22.2 cents, leaving a net charge total of 1.011. An exposure charge of 5 cents is added to any fire proof building for exposure to the contents. Where the danger of the exposure to the contents is not as severe as it is to the building itself, where the building stands as something of a

guard, the charge is not made, and we have 1.061. A deduction for coinsurance is then made, which is 15 per cent, and we have a final rate of 90.002. That same process is followed where there ain't many tenants in that building, and the same process is followed for each individual tenant having his respective occupancy charge, and the height charge.

Q. That is practically a fair illustration of the methods used to effect, to fix the rate on every piece of real estate and personal property that is at risk? A. Yes, sir, specifically rated, but that only covers about one sixth of the majority.

Q. How are the others rated? A. The other five-sixths?

Q. Yes? A. At the minimum rate as we call it, or at the best rate that is furnished in the handbook.

Q. That is the handbook there? A. Yes, sir.

Q. That comprises about five-sixths of all the risks? A. About one risk in six is subject to what we call the specific rating; that is, having a schedule applied in this manner to the card in the cabinet.

Q. Others are determined from the handbook and the base rate? A. Yes, sir.

By Chairman Merritt:

Q. Good construction from the point of fire protection is required not only on the specific property, but under everything adjacent thereto? A. Yes, everything adjacent thereto that might be affected.

By the Chairman:

Q. And what might be protected and what might be called the sphere of action? A. Yes.

By Senator Young:

Q. There are thirty-two co-insurance on the building, and only fifteen when this was adopted? A. It is worth a great deal more — the allowance for co-insurance on a fireproof building is worth a good deal more. The chance of a fireproof building being damaged ten per cent is of course a normal chance. As you rise in

the scale, the chances are thirty, forty, fifty, sixty, seventy, eighty. It grows less and less. It may totally disappear. There is not much danger in fireproof buildings. There is more danger in non-fireproof buildings.

Q. How do you arrive at the 32 per cent allowance? A. There is a graded table in here.

Q. And 15 per cent on the contents of personal property? A. They assume it is 20 per cent co-insurance will be carried on the contents and no allowance will be made for anything up to that point, and after that point one-quarter of one per cent allowance is made for each one per cent of additional co-insurance. Eighty is sixty, both twenty, and one-quarter of sixty would be the fifteen.

Q. I see. A. It works out additionally on the building.

By Judge Bruce:

Q. Are these conditions and allowances fixed? Is there a specific schedule out here of the Syndicate Building? A. They are all fixed by the Exchange. They make the figures themselves that we work from.

Q. The figures are fixed by the Exchange? A. By the Exchange.

Q. Take, for instance, that allowance for modern attachments at the top of the building, who fixes that? A. The Exchange, in adopting the schedule.

Q. All the items there, both additions and allowances, charges, are fixed absolutely by the Exchange? A. By the Exchange on the recommendation of the committee. Of course usually that committee has given them consideration before.

Q. Yes, that is the method by which they are fixed. But are they fixed by the Exchange itself? A. Yes, sir.

Willis O. Robb, recalled.

By Judge Bruce:

Q. Now, will you explain, the method by which these methods and these allowances are determined and fixed by the Exchange to which Mr. Hardy just referred? A. This schedule which has been demonstrated by Mr. Hardy is substantially the Universal

Mercantile Schedule, and the history of its establishment as to base rates and as to specific charges is known to me only at second hand. But I know that the committee of gentlemen who were engaged in preparing it first got from a large number of the chief underwriting offices in the United States an expression of opinion in the light of their own experiences and the records of their respective companies, as to what they thought they could afford to write an ideal risk of a good mercantile class in an ordinary city under ordinary fire protection at, and break even. The consensus of that opinion was tentatively adopted as the rate toward which the average result from the building of a scale should tend. Variations from that average result, or such conditions as I have already indicated, were worked out later. Then they proceeded to develop the distinction between risks of the same general class, and there again, and to an even larger degree, the results reached in the specific charges and grades are a matter of expert opinion rather than a matter of the experience of figures. There are no figures available known in the world. There never can be, which show what percentage of the loss on any class of risks are surely due to one minor defect of construction or to occupancy. The general intelligence is brought to bear upon it, and the underwriter after a while begins to give relative values to different features of protection or of deficiency, and the consensus of that opinion is worked out very carefully at the outset, and is modified as experience changes. They are not accurate and they never will be. It is quite certain, however, that everything charged for is charged for because it is less perfect as a condition. And no underwriter, no construction engineer, no fire engineer, and no fire department expert will question that these things ought to be charged for. That they represent hazards. None of them can tell what figure they ought to quote in the rate with accuracy. But at the same time every such expert knows that certain kinds of protection, certain kinds of construction throughout, are graded, and some of them are above the average or normal requirements in a given city, and if the base rate assumed an average risk, they should be treated as deductions. There is no difference of opinion that these things ought to be charged for and graded; there is a difference of opinion among individuals as to the exact proportion that they should

occupy in the final result. I fancy that underwriters have figured out this conclusion on the subject after making that schedule of rates first, whether the minute charges in such schedule rating are available or not. The schedule will show a party when they are made, whose risk is visibly like that of his neighbor, that he will get the same rate, always and everywhere, and if in addition to that a reasonable approximation can be made, it will be done, for the reason that as a group is better or worse than the group to which this one man's risk belongs — that in the long run, the schedule rate will not only produce a satisfactory graded result, but will reduce to a minimum the ground of individual complaint. Personally, I think that if I can make all risks that are alike pay the same rate and reasonable approximate the result of making risks there will be no difference in the real inherent hazard. Take the correspondingly different rate, and the graded fire insurance cost in the United States will take care of itself. And never can be a permanent excessive charge for that or any other commodity with the publication of the official figures in every State of the Union, with the access of new companies whenever a temporary showing of profit is made. The governing or balance wheel will operate of itself to reduce the percentage, or otherwise the graded cost of fire insurance, and the public will not in the long run, and cannot in the long run, suffer any great hardship, if we can only get rid of the discrimination between individuals. That is what schedule rating aims at. The rate can be kept down only by co-operation, and it never has been done in any other way. It is absolutely essential, now that it has been established, that it should be continued. There are millions of dollars in money going into the construction of new fireproof and substantially fireproof buildings, in what has come to be known as the new wholesale district of New York city, and those buildings have been built from the time the ground was broken to the time they were occupied with tenants, with reference to the rate that the building owner and his tenant could get from the New York Fire Insurance Exchange, and they knew before they began what it would be. It is because of the schedule ratings that the elaborate appliances for protection have been installed in those buildings. It is because of this that there has been a careful execution made, and certain classes of

tenants have been excluded for the benefit of that class desired by the landlord. The benefit of a minute schedule rating applies here, but if the New York Fire Insurance Exchange, or any other schedule rating organization, should cease to operate now, there would remain an absolutely irremovable benefit in the superior construction of those buildings which never would have been erected but for this same schedule rating. But the benefit to New York city is in the transfer from the so-called congested district of these enormous values to the new and fireproof buildings that are going up on Fourth avenue from 17th street north and nobody knows what the amount of that value is. But we do know this, that in the so-called congested district of New York, traditionally so called, from Chambers street to 14th street, and from river to river, there are less than three-quarters of the number of acres that were burned over in the San Francisco conflagration. And that if those acres, say 2,100 in number, are burned over, the loss will be between four and a half and five times what it was when San Francisco burned; and, incidentally, about four times the assets, the surplus, and the capital of all the companies admitted to do business in New York State. It will cost one thousand millions to pay for that loss if it ever happens; and underwriters have begun to sleep nights from the time that the fireproof construction of buildings in this Fourth avenue district that I speak of begun. From the beginning owners and architects of these buildings consulted with the New York Fire Insurance Exchange, and there wasn't a point that they did not compass; not a point that they did not consider and consider carefully, with reference to the final rate that they could get for a building, the most perfect of its class and occupancy that they could put up, and they carried out specifications that the New York Fire Insurance Exchange furnished to them — furnished to them without cost, you understand. If it were not for the wish of the owners of these buildings to erect a superior structure and to get the class of tenants they desired, inferior buildings would have been put up and the relief I have outlined would not have been afforded. I want to say in this connection that the minimum stock rate in New York city is ten cents and I want to say that they pay on that particular building 10.9.

By Assemblyman Foley:

Q. What would be the average of the ordinary mercantile building in a congested district? A. I cannot tell you the average.

Q. About? A. A building ordinarily as constructed there would not pay one-sixth. One-seventh. The contents were very much higher according to the adjacent value. Even in the buildings I speak of, even if a floor or a suite of floors would burn out clean the rest of the building would not be effected. The natural tendency has been, in connection with the woolen, cotton and other trades that are leading the congested district, to have owners and builders erect such structures as will attract them and at the same time procure for the owners the best rate.

By Assemblyman Foley:

Q. Do you mean that the value of the merchandise is affected there? A. It cuts very little figure.

Q. Why will it cut any figure? A. Because the single tenant in a one-story building is subjected to a multiplicity of hazards.

Q. But the value of the merchandise would not have anything to do with it? A. I said the congested value of the merchandise, meaning the accumulation of stocks.

By Judge Bruce:

Q. Who fixes the amount of the allowance they would get in the Everett Building, for this excellent construction? A. That allowance was substantially fixed when the structure was built.

Q. Who did that? A. Why, they took the rate which applied to that schedule.

Q. Who did that? A. I don't know.

Q. Did the New York Fire Exchange do it? A. The Fire Exchange accepted the schedule and has modified it only in the last details.

Q. In the last analysis who made and promulgated the rate? A. The New York Fire Insurance Exchange, acting for its members.

Q. Of course the owner had nothing to do with that? A. He had a whole lot to do with it. He could easily have had a rate

of 25 cents when his insurance is now ten and a fraction. He was very busy with it and so were his architects and his contractors.

Q. After consulting his architects and his contractors and building the most perfect and fire-proof building that could be constructed, after he had done all that, the Fire Exchange of itself fixed the rate, did it not? A. The New York Fire Insurance Exchange in good faith carried out what they told him they would do if he did those things.

Q. They said what they would do? A. Surely.

Q. There was no other market where he could go and buy insurance in this territory? A. Oh, yes.

Q. Where? A. Well, the Insurance Department officials are some of them present, and perhaps it is not becoming in me to say how men get insurance that they have no legal right to procure in this territory.

Q. We would like to know, whether there are such officials present or not. How do they do it? A. I don't know. I see the results and guess at the methods.

Q. Could it legally be done? A. No.

Q. In other words, the only market he had to go to to be legally insured, was to some member of the New York Fire Insurance Exchange, and they, of themselves, deliberately fixed the rate? A. They fixed the rate deliberation. The owner of the Everett Building began long before that to consult with architects and contractors in order to put up a building at as nearly perfect fire-proof construction as it was possible to erect, and after consultation at the New York Fire Insurance Exchange, the large companies made the best rate they could give him for the excellent building he was to put up. He knew through building the building, and so got the rate.

Q. Wouldn't another man building a building know? A. He wouldn't know how, nor would his architect. The next generation of architects will know how better than any man now living does.

Q. But take the next man that built the next building after the Everett Building? A. The next man comes along and puts up a similar building, and benefits by the experience of the man who built the Everett Building. He produces a duplicate.

Q. Now how many members of the Exchange have you? A. I think, sir, there are about sixty-five, with offices in New York, with thirty-five agencies representing outside offices. Say 180 companies. That is not the way we count them, but there are 180 companies, or say a hundred members.

Q. But such a man could go out into the market and buy his insurance? A. Yes, after the Fire Insurance Exchange was in existence long enough to educate the men who educated the architects, he could have taken the first vacant space and built his building there, but he needed the where to stand.

Q. Is the main benefit flowing from the Exchange, the education of architects and builders? A. It is a very conspicuous benefit; it is by no means the only one, I should hestitate to say it is even the main one; but it is a very conspicuous one. There is nothing more illuminating for building construction than the diagram of the rates of fire insurance.

Recess until 2 P. M.

AFTER RECESS.

WILLIS O. ROBB resumed the stand.

By Judge BRUCE:

Q. Mr. Robb, in case an allowance is to be made upon a risk for any peculiarity of construction of any apparatus that may be placed on the building for the purpose of extinguishing fires, who fixes, and how is fixed, the amount of the allowance? A. If the device is an old one, familiar to underwriters, it will have been already taken account of and a charge fixed by the Exchange in the preparation of the schedule. That may have been done upon the report of a rate committee or upon the report of a special committee, upon the preparation of that schedule, if it is a new device, just as in the case of a new process or hazard.

The usual course is this: That it will have been tested out by the underwriters' laboratories maintained by the National Board, and whose works are in Chicago. It will have been fully reported upon, and that report will be in the files of the Exchange, and

of the New York Board of Fire Underwriters. If it has any special significance at all, it will also have been reported upon by the New York Board of Fire Underwriters, and their report filed with the Exchange. That, in turn, will be examined by the engineers of the Exchange, the chief of the general hazard rating department or someone else in charge of the application of the schedule, and he will have made to the manager, and through the manager to the rating department, a recommendation as to the proper allowance that should be made in the schedule for that device, or the proper charge for a new process or substance, if that be the matter in hand. The rate committee will consider it, and will report it to the Exchange. It is their custom to give notice in advance when a matter of that kind is to come before the Exchange, so that some consideration can be given it by the members, many of whom are underwriters of pronounced ideas and long experience, and they are thus given an opportunity to reach a conclusion, and the comparison of those opinions results in the adoption by the Exchange of a charge or item in the schedule, as the case may be, based upon these reports.

Q. Then, in the first instance, it is a matter of good judgment, isn't it, on the part of the rate making body? A. No. It is judgment as largely controlled by that of experts who have made the primary examination. If there were a question raised that the moving picture show film depots ought to have a special concession in any given case, because they had adopted either the practice of keeping only what are called non-inflammable films, and if the Exchange had no previous subdivision of class or rate for such exchanges or depots, there would be a scientific test of the alleged non-inflammable film. It would go through the chemists and physicists of the underwriters' laboratory before it would be up for action by the Exchange at all, and while the practicable measurement of the hazard would be made by the Exchange on the recommendation of the rate committee, that would have been largely influenced in the outset by purely expert findings.

Q. Now these rates, fire insurance rates, when once fixed by the Exchange, can be modified by vote of how many members of the Exchange? A. Do you mean now fixed items in the schedule?

Q. Yes. A. Or a rate on a given risk?

Q. No; fixed items in the schedule? A. Why, I believe they can be modified by a majority vote. Perhaps I am in error about that.

(Judge Bruce showed a book to the witness.)

A. Yes. That is true; a vote of ninety per cent. of the members present and voting is necessary to change a schedule item.

Q. Now, the agreement by section 13 required that those rates, that is the fixed rates, should be adopted at the first meeting of the Exchange, does it not? A. I believe so; yes.

Q. Page fourteen? A. Such rates as were then in hand and had been in use under the former rating association were adopted in block at that time.

Q. But that no unrated risk should be made, except subject to a rate to be made by the Exchange, and that such rate should apply from the assumption of the insurance? A. That is right.

Q. It also provided, did it not, that rate risks when taken for periods of less than a year, shall be taken only at the rates named in short tables of this Exchange? What did that mean? A. Oh, the short rate tables are of universal use throughout the country, recognized even in the standard policy provision for cancellation, and they are tables by which a higher than the period rate is charged for insurance written for a short term, a term less than one year, the theory being that the percentage of expense is unduly high for frequent inspection and rewriting the policy, &c.

Q. And for how long a term may a risk be written upon merchandise and machinery? A. I believe for one year.

Q. Not for longer than one year? A. I so understand.

By Mr. Hurrell:

Q. Is there any attempt, Mr. Robb, by the members of the Exchange, to check up the rates that have been in force for any period of years on any particular class, as to whether the rates charged have been deficient or excessive? A. Yes, sir.

Q. What is done, please, by the Exchange? A. That question may arise from the inquiry of some association of manufacturers or merchants or property owners interested in a particular class,

and in that case it will come to the Exchange and be referred to the rate committee for consideration, and go through the usual course of a recommendation from the rate committee to the Exchange. That ordinarily happens only in case the owners of such risk think their rates are too high proportionately to other risks.

If, on the other hand, a number of companies or underwriting offices have, by communication with each other, ascertained that they have had a common experience or net loss on a class, instead of a net profit, they will take the matter up with the rate committee and propose a revision of the base rate, or some charge, or a flat percentage addition to the final rate upon the class of risks under consideration, in order to bring the class up to a self-paying basis.

Q. Now, how do the individual companies determine whether they have had a loss or a profit on a given class? A. Approximately, only, they determine it, by such classifications as they maintain, which vary largely in different offices, but have something in common in their outlines and which are studied, because to a large extent the managing underwriter's local agents and general agents have some contingent interest in the profits of their departments or business, and figure somewhat closely the results of every year's work.

Now, several years in which a given class shows a net loss, would justify a company that had that experience in beginning to compare notes with other companies. It might find a given company had no classification that exactly agreed with that, but that it had a very distinct impression to the same effect. All these deductions and impressions and beliefs would tend to create the general belief in the Exchange that that class needed some further attention. The manager has, I think, been in the habit also of writing to members of the Exchange, and asking from them, in confidence, a statement of their experience, their premium income and losses, so far as their qualifications will enable them to furnish them on a named class. So it is with printing offices, fireproof hotels — anything you please.

Q. You mean the manager of the Exchange? A. Yes; where the matter has been brought to him by any member or any property owner interested. These figures are tabulated, and in a rough or approximate way furnish some guide to the Exchange

and its membership in determining whether that class needs any revision of rate. That is very approximate. It is not, and it never will be, mathematical or purely scientific.

Q. Well, the results that a manager would get upon such an inquiry would aid him more than the rate committee, or finally the Exchange, in determining whether a given class, at a given rate, had produced a loss or a profit, would it not? A. It would be of some assistance to that end.

Q. Well, it would be. That was my question. It would be of some assistance? A. It would be of some assistance.

Q. How would the results be used, or in what way would it be of some assistance? A. If, on being tabulated and presented, it seemed to the majority of the rate committee, and on their report, subsequently to a large majority of the Exchange, to indicate even approximately how far short that class had come of earning its average profit, or, if you please, how far it had gone beyond the average of other classes not earning their profit, an adjustment would be made in the light of this tabulation. It would be rough. It would be, however, the nearest approach to justice that could then be rendered.

Q. Do you recollect, in your experience as manager of the Exchange, of any specific cases where there was the thought communicated to the Exchange that a class was rated too high or too low? A. I think there have been two or three base rates readjusted in these five months. It is but fair to say that there would have been more up for consideration, but for the fact that a somewhat general revision of rates is under way, and has been under way, at the hands of the rate committee, for some time.

Q. Have they been using the same method in determining whether they should recommend an increase or a decrease in different rates or different classes? A. Yes, to a considerable extent. The rate committee is made up, and is nearly wholly always made up of practical underwriters who are what are called counter men, or managers of their company's city business, as distinguished from presidents and secretaries and United States branch managers; the men who are in actual touch with underwriting conditions; who know what the business is doing over their own counters; who talk with the brokers; who place the

business, and who get in the way of all the information that there is on the subject.

Q. Now, I take it when you say that there has been efforts made at various times to see whether rates in a given class are too high or too low, which efforts have resulted in the determination to change the base rate, that the idea was to change the base rate so that the application of the schedule could go on undisturbed, and the individual risks within the class receive either a charge or a credit, as they might show up, in applying the schedule. Is that not true? A. That is done if the expectation is that that particular change as to amount is likely to be permanent. If it is tentative, for a while the change will be made by an addition or deduction at the bottom of the rate sheet; ten per cent. or fifteen per cent. will be taken off or added on in the figuring. That condition can be restored without disturbing the base rates. Generally they prefer not to disturb the base rates unnecessarily.

Q. Then, I take it, this addition of the percentage to the sum total, arrived at by applying the schedule to the base rate, is only when the underwriters are experimenting, or only in those cases where they know the reason for the deficit, we will say, in the rate; to wit, when that is too low. Is that a fair deduction? A. Let me explain that just a little further. In the case of a schedule which has but few charges, and in the final rate, based upon which the base rate is a large proportion, it is comparatively easy to make any change by changing the base rate. In the case of a schedule as complicated as the mercantile schedule, where the base rate is very low, compared to the average final result reached for that class, shows a profit or a loss, it is difficult to determine, in most cases, whether that is due to an improper adjustment of some charge, or to a wrong calculation on the original base rate; it is simpler, it is most natural to treat such a rate reduction by an addition or reduction at the bottom of the schedule. A given class of risks, on their showing, will suddenly be ordered to be subject to a ten per cent. reduction from the card rates. That means that the members are authorized, at their counters, to issue policies at that rate below; at ten per cent: off the published card rate. It is not the intention to make that arrangement permanent. Sooner or later it is expected that those changes will be

embodied in the card rate, but for quick action, and for the purpose of maintaining the experiment, a deduction is made and authorized to be made, at the counters.

Q. Now, it is true, is it not, that most of the companies that are members of the Exchange keep some kind of a classification; that is, a record of their loss experience, that loss experience being divided up into classes? A. I should say so; that some kind of a classification is kept by most of the members.

Q. And it is true now, is it not, that the classes of one company vary from the classes kept by another company? A. To quite an extent; yes, sir.

Q. And is it not true that some companies have their experience divided up into as many as 1,200 classes? A. I think I have heard such a story. I never have seen such a classification.

Q. Can you tell me what the purpose of that fine classification is? A. I have no doubt that the purpose in establishing or developing so minute a classification was to increase the accuracy of the underwriting operations of the company, and of the associations of companies anywhere in the country of which this company might be a member. Many such experiments have, however, been abandoned. Many minute classifications have been reduced and simplified, because they were found to be, while theoretically sound, practically unworkable. It is impossible to tell what principle of classification is to be adopted and adhered to. I do not mean merely in the matter of the number of classes. Mr. Stoddart said on the stand the other day that the elements of a hazard, which fix its rate may be said to be four; construction, occupancy, exposure and moral hazard. Now, ordinarily, the classification is by occupancy in a broad way, but we subdivide occupancy constantly in the Exchange classification as between fireproof and non-fireproof buildings otherwise occupied alike. There are many companies that make a special classification of all the risks they have that are under the protection of automatic sprinklers and are indifferent to any other line of difference of occupancy or construction or anything else, than just that. They consider it to be the dominating or controlling factor in that class. Some other company may elect to do something very different, and the company that treats automatic sprinklered risks as a class will again

subdivide that class according to the tradition or excellence of the equipment as shown by the expert reports.

No uniform principle of classification, much less a uniform classification, has been arrived at or agreed upon.

The Exchange has, for it own purposes, the universal schedule of occupancies for use in applying the machinery of the rate department to mercantile risks, and it has a large class of general hazard base rates for the same purpose, in fixing rates on classes other than the so-called mercantile class. Those are changed, subdivided, consolidated, moved up or down from time to time, not hastily or rapidly, because it takes a long time and a large area of operations to furnish any trustworthy data for making the change of a rate on any comparatively small class.

Somebody once pointed out that by the time the companies had accumulated data enough to begin to rate scientifically flour mills throughout the United States — and the number was not a very large one — in the meantime every mechanical process that went into a flour mill had changed, and the figures so laboriously acquired had become practically useless to do business with. That is true of many as a class. And it can't be helped. Mathematics do not interefere with that at all. They cannot control it. There are classes that, without any visible change in the price of construction or occupancy, suddenly show a decreased or increased profit ratio; and nobody knows why, but if it is permanent it will tell its story in the rate sooner or later, inevitably.

But sometimes complaints are made prematurely. I have in mind the case of a rate we make for fire-proof hotels, on which representations were made to me, perhaps the first week I was in the management of the Exchange, and those representations led me to go into the subject. Now, it is a fact that within the area of operations of the New York Fire Insurance Exchange, up to date, the very low rates made on fire-proof hotel buildings — I take buildings for simplicity's sake; it is true of contents, too — have been unduly profitable in comparison with many other classes. If that were conclusive evidence of a permanent condition an adjustment of rates would be a vested right in hotel-keepers' association, but the average rate on hotels of that class, after you unload it for the expenses of the business, which we will

doubtless come to discuss a little later, is such that if any company had a large enough number of those risks on its books, it would have to have this experience, namely, that it would have only the equivalent of one hotel loss in the aggregate of a few small partial losses. It could have only the equipment of one total loss per year in every fifty such risks.

Q. Why do you say that? Because that is the burning ratio of them? A. The net rate unloaded for expenses there is under sixteen cents, as I now recall it. I have not the figures handy, but if so, you can figure it for yourself. One in 600 total loss eats up that premium sum. Now, there are not on earth, to say nothing of the United States or New York city, 650 fire-proof hotels, and those that are here or elsewhere have not an average age of more than seven years. There is not any experience whatever that is long enough or broad enough to furnish a basis, and until we have ascertained approximately the average interval between total losses, and the number of partial losses, and their character, which will fill that interval, we know very little about the real record of fire-proof hotels, and by the time we have learned it may be there will be no fire-proof hotels. We may all be dining in aeroplanes. Something will happen to make that experience measurably useless by the time we have got it together.

Now, if I take a ten years' record in New York of all hotels, fire-proof, non-fire-proof and everything, it will show something of the same story. But suppose I went back another ten years. I include by that the total destruction of the Windsor Hotel, and the story is entirely different. Now, one total loss is no criterion of anything in rating, but in the case of a small class we have got to ascertain at about what rate total losses occur.

If we had nothing to deal with but brick mercantile risks of two-story construction, and of one occupancy, scattered all over the United States, there will be enough of them in towns of average size insured and burned every year or every few years to correct frequently our experience tables, and, if necessary, readjust our risk. Though it must not be forgotten that even in such a class local conditions make a great difference. There must be a modification of the average rate to meet local conditions, just as there must be a modification of the average rate to meet every

specific risk and its differences. The burning experience of the same class of property varies in different States; sometimes in adjoining States inexplicably, and yet almost permanent. I do not know why. I remember once finding that the experience of the company by which I was employed in the State adjacent to the one I traveled in showed that the result was very bad on brick dwellings. And the reason was that the losses were nearly all total losses. Inquiry developed the probability — I think it was never more than a probability — that the practical total absence of sharp sand in that State made brick walls collapse like paper in a fire; that they had no resisting power, even in the cities of some size, and mercantile and dwelling risks alike were away below the average and standard for brick construction. Well, you would be a long time thinking of that by dead reckoning.

Q. Well, of course, if you did think of it, in coming to apply the schedule to a section of the country, or applying a schedule to a section of the country where that character of brick buildings were located, as I understand the principle of schedule rating, you could take care of that in your schedule by increasing the charge for brick dwellings or brick buildings in that locality? A. We did that without waiting to find why it happened. We were satisfied when we knew it was happening, and the rate went up in that State.

Q. Well, now, I presume the companies, as a class, had the record of brick buildings in that state, did they not? A. Each company had more or less a record of its own experience, and in association meetings, and at luncheon and elsewhere managers conferred with each other. No common experience table was ever prepared that went into details, for the reason that they were not commensurate; they did not have a common classification to start with.

Q. But the reason that the rate was advanced upon that class of property, as you say it was, was because of the experience of the company? A. Surely.

Q. And rather than using anything accurate in the way of exact classification of these losses, it was the knowledge which one underwriter gained from talking to another underwriter, that both companies were having the same experience? A. Surely. That was the main factor in working the readjustment.

Q. So the rates advanced were upon knowledge gained by a sort of verbal pooling of experience? A. Right to that extent, yes, sir.

Q. Now, granting that the results would not always be finally accurate by a classification, do you not think if the companies should report, or keep their classes uniformly by agreement among themselves, or by any system that would get them to do it, that the results which would be down upon their books, and which would appear from the pooling of the experience, would be more helpful in the construction of a base rate, or, if you please, in the addition of the particular charge in a schedule? Don't you believe that that information so gathered and used would be more accurate and more likely to be helpful than this verbal communication between company managers? A. Why, the common experience which is exchanged in that way is as approximately true as any schedule rate can be. If it went further into detail it would be less useful. The minute charges of the schedule rate to equalize identically the risks on identical rates in the same class. They are not in themselves a measure of the fire hazard of that particular feature. We work backwards. When we build a rate with the best relativity as to the charge to be made for any one hazard that we can, and the result is too high or too low, we modify it.

Q. How do you determine it is too high or too low? A. By the general average of underwriting sentiment based on the general results of underwriting classification.

Q. Yes, that general average that you get from discussion over the luncheon table or in the board meeting? A. Yes.

Q. The question I am asking is, isn't it better for bodies that wish to maintain these rates uniformly, to have the information in their hands so that when they do advance a rate they can give some other reply to the public than underwriting judgment? A. They do not give the reply of underwriting judgment alone. They have the information and they would be, as each of them is in his own case, afraid to use it literally, and in detail as an association, as a warrant for any slight change. That is what would happen if lawyers or State officials or mathematicians tried to use those figures. Underwriters do not think those figures a safe guide in

detail eventually to themselves, and they know they would not be in the hands of anybody who had not the warning of years of experience that they were misleading in many ways.

Q. Yes, but you say it is the experience gained by these managers that leads them to advance or to reduce a rate? A. Yes.

Q. Now, it is the experience that is in their own classification? A. Surely.

Q. Which they use in conferring with others concerning a rate? Isn't that true? A. It is the impression made on them by this experience table.

Q. By the results which their accountants hand them as the result of doing business in different classes over a certain period of time and over a certain territory, isn't that true? A. Only in part.

Q. Well, what part of it is false or wrong? A. They compare that with previous time and with their adjoining territories, and they find, even in that comparison, with their best efforts that they have probably misled them as to the period of that class.

Q. Will you pardon an interruption. Something has occurred to me. In comparing that with the previous experience, they still compare it with something of record in their offices in order to have a comparison. They cannot carry these things in their own minds, can they? A. All right; they do.

Q. So that is where the other illustration was misleading? That the figures in and of themselves are of no use, unless they are compared with the previous period? A. And with large areas, and I might add, with the experience of many companies.

Q. Yes. Well, a rate-making body with experts to cull over this information for them, if they had it to use, could just as well take into consideration in the making of a rate, the previous experience in the last cycle of years, could they not, that is, in the cycle of years we will say some time removed from the period over which they were working? A. Well, it would not be quite so useful, of course.

Q. Well, granting that the experience is helpful in arriving at a base rate or at any rate that you want to charge a given class, it is true, is it not, that the New York Fire Insurance Exchange does not have that information before it in fixing a rate? A. It

has access to all the information there is. It does not and would not dare put that information in detailed figures on the table and work by it, nor would any other rate-making body in the world.

Q. Why not? A. Because it would be sure of being misled by reliance upon figures.

Q. Well now, we are not talking about relying wholly; we are talking about these figures being a helpful means to an end. We are not going to have school boys work at these figures. We are going to have experts. A. So far as it can be made helpful it is made helpful. The members of the rate committee have their own figures. They bring them to the meetings of the committee — figures on classifications.

Q. How many members are there on the committee? A. Seven.

Q. And how many companies do they represent? A. Well, some of them are agents and some of them are company employees or officers, and they rotate in office.

Q. But the company figures brought to bear on that problem, which I suppose is usually the results of that committee — their reports are usually adopted by the Exchange, are they not? A. Well, not until the manager has been instructed by the rate committee to canvass all the members of the Exchange for their information on that class.

Q. And do they submit their experience to the manager of the Exchange so —— A. (Interrupting.) Where they have it they do.

Again and again some of them would reply that their classification does not fit the description the Exchange manager has given in his request circular, but where they have it they do.

Q. And do you find it a very common occurrence that various companies have enough, that is, have the same classifications, so that in those cases you get very much help from them? A. Oh yes, approximately. Their aggregate experience is valuable. It shows which way the fire ratio on a large class is headed.

Q. Well now, suppose the court of review of the State of Louisiana were transferred to the city of New York and you were cited in to show cause before that court why a given rate should not be reduced. What data would you have to bring before that court of review to prove that your rate was anywheres

near the rate that you state you had offered as the right rate. You would state that you had conferred and had collected statistics. Are they in such shape that you could collect them and build them up in order to have them help the court and thus help you? A. Only in a general and approximate way. I could not show to the satisfaction of such a court at all closely the correspondence between that experience so tabulated and the average rate of the small class. I could as to a large class, but I could not do it as to a small cass. Conditions change faster than the rating can be adjusted.

Q. Wouldn't it be helpful, in permitting you to demonstrate the correctness of the Exchange or the board's rate, to have before you, and to have before your committee whenever you want to change or to make a rate — to have the combined experience of all of your members before you, so that the result of that experience in any class that was worthy of being given a class by itself, would be there to be helpful to you at that time, without this cumbersome method of traveling around among the companies and getting a hit-and-miss classification on the subject that you were working on? A. The answer to that is that if I had all the detailed figures of all the companies, and had averages and aggregates, tabulations and reclassifications thereof, they would have the same vicious tendency that figures always have. They would try to make you believe them. Now, they cannot be believed.

Q. No, but you are forewarned against these vicious tendencies. You could use them intelligently? A. That is true. I cannot use them intelligently. The instant I begin to deal with them I begin to rely upon them. I have had come to my desk as loss department manager of a great company, four daily reports; that is to say, office copies of policies issued upon the identical same risk at intervals of two or three months, and all in force at the time a loss occurred. In the classification scheme of that company, which was approximately the so-called Griswold classification of some 80 or 85 classes, every one of these policies had been classified differently by intelligent men.

Q. In the same company? A. In the same company. There were more than one tenant; we will say there are perhaps two or three tenants; probably there had been a change of tenants which

denominated the classification of that risk. It is impossible to classify accurately, minutely and fully. Now, to what shall I charge that loss in my statistics? I do not know. The manager of the company does not know. Anybody who tries to rely on figures and gets the impression that they will tell him the truth nearly enough for a permanent code in writing is going to lose his job surely.

Q. Yes, but as I understand you, Mr. Robb, you do use just that rule now, only you do it by having somebody tell you about it instead of taking the actual figures? A. We tried to get it into the circulation of the blood. Anybody who tries to travel from figures to rates direct, without introducing the arterial system of the rational human being, is going to fall down in his rates.

Q. We do not have any quarrel about that? A. I am trying to make it clear.

By Chairman MERRITT:

Q. A good rate maker ought to have a sixth sense? A. He does. He does have just that, I know, just as I know a man who can go into a damaged stock which has been badly damaged by fire and water, and guess within 5 per cent of what it will bring at auction. So I know a man who can go into a complicated risk; who has not made a figure or seen a survey or who does not have a schedule and quote the rates that will not vary from the detailed schedule. They are rare and their pay is high, but they do exist.

By Mr. HURRELL:

Q. But that is not about the use of these figures. Of course, you admit the results of classification when they are reduced to figures before you, for fear they may mislead someone without sufficient intelligence to deal with them, but now you must admit, do you not, that you use these same results in making rates now that you would get from those figures? A. Certainly; all right.

Q. But you have not got the figures to back you up? A. I think I get all there is of value out of those figures in the making of the rates. That is what I think. I think I get the wine out of the brick.

Q. So you agree with me when you say you get them by introduction of some other way than by an inspection of the figures themselves? A. No, by solution combined with experience.

Q. Well, but you do not have anything to go on there? A. Oh, yes, we do; oh, yes, we do, we have the figures but we avoid being misled by them. We avoid believing implicitly and in detail. That is the hardest thing for the underwriter to learn; not to believe all that he sees on paper or hears.

Q. As a matter of fact I understand you do not have in this rate-making body those statistics collected that way? A. We have all the statistics that are obtainable from the companies.

By Judge BRUCE:

Q. Well, why do those companies gather these statistics? A. Many of them have ceased to do so to any considerable extent, and many of them are more and more inclined to rely upon the classification and rate made by associations which make a business of it, and, in other words, to steal the business of other companies who have helped to contribute a proper place to these rate associations.

Q. Do they gather these statistics with any reference to rates? Don't they gather them for the purpose of noting what business to look for and what business to avoid? Desirable risks and undesirable risks? Is that the primary purpose? A. No. Many a company reaches its own conclusion in a general way on a given class and declines thereafter to write it at the current rate; files notice with the Exchange that its experience leads it to believe that it ought to get a higher rate. Many a risk in New York cannot be written, cannot be placed by a broker until fixed at the Exchange rates, because their experience, their prejudice perhaps caused by the way that class has got transfixed or of a particular managing underwriter is against it, and he does not believe that our rates are right, and he won't write at the rates.

Q. That is, he has gathered these statistics for the very purpose of knowing whether he wants these risks? A. That is right.

Q. Which are the good ones or the ones he wants and the ones he goes after? A. Yes.

Q. Now, if your organization included in the agreement the

provision that this company should file with the organization its experience so gathered, how long would the organization hold together. Do you think any of them would do it? A. There is a wide variety of opinion as to the value of minute classifications. Some of them would not do it because they would say that for them and for their associate companies it cannot be possibly worth its cost. Others would gladly do it, even though they were skeptical as to its special value.

Q. Well, if they all had it they would use it at their own offices? A. Yes, sir.

Q. That is part of their assets? A. Yes, if it were good enough for the purpose, but they would not go to any considerable expense. It would hold them from any such association maintained by them to make rates.

Q. But do you think you could pass any such amendment to your agreement? Would your members agree to any such proposition? A. Well, if they did not it would not be because of their unwillingness to contribute the figures.

Q. It would not? A. It would be because of the skepticism as to the value of any minute classification of figures.

Q. Well, even if you had these pooled figures from your experience they certainly would be of some value to the rate-making committee, wouldn't they? A. To some, and there are some perhaps who have all the assistance that they care about.

Q. Then why has not the Exchange required them to pool such experience? A. You mean to maintain it?

Q. Yes, to maintain it? A. One reason is this: The business of the New York Fire Insurance Exchange is approximately ten per cent. that of the business of the United States, presumably ten per cent. that of any large company operating throughout the United States as well as in New York. Now, the classification of any of these companies for New York alone might not be sufficiently broad to be of any use in New York, and many of them would have learned to keep wholly different classifications because of the different character of business somewhere else, classifications cannot be uniform throughout the country.

Q. They could all be made uniform by the National Board, could it not; in the last analyses you are under the control of the

National Board, are you not? A. The National Board has no control whatever of any tariff association that I know of.

Q. I know, but your association exists by leave of the New York Board of Underwriters, do you not; you could not exist without their permission? A. Oh, no, that is not true.

Q. Isn't it provided here in the second section of the agreement pursuant to section 21? A. Quite unnecessary.

Q. Just a moment; in pursuance of section 21 of the by-laws of the New York Board of Fire Underwriters the subscribers hereto by our signatures affirm our support and membership in the New York Fire Insurance Exchange? A. That is true.

Q. And the New York Board of Fire Underwriters is subordinate in a measure to the National Board? A. No, sir, that is not so; that permission is perfectly unnecessary. The same men who form the New York Board can form a tariff association if they choose to organize under some other name for that purpose, there is nothing to prevent them. It was a courtesy permitted in the laws of the New York Board which made it clear that members if they choose to could form such an organization; it has no relation to the National Board at all.

Q. What is the necessity for this act of courtesy? A. None; as I say, it is absolutely unnecessary.

Q. Notwithstanding that, the fact is it is there? Now, to obviate the difficulty to which you refer in the uniformity of these statistics, the National Board could provide that all companies belonging to the rate-making bodies should collect and collate their experiences in a certain uniform manner, could they not? A. Not effectively; it would not result. Recall, please that the membership of the New York Fire Insurance Exchange is not solely a membership of companies or head officers of companies. It is a membership partly made up by agencies representing out-of-town companies. It is a little difficult to convey to you the jealousy with which such agents view their independent persoual representation both in the Exchange and in the New York Board. The measure of independence allowed them by their companies because of their position as powerful agents in a great city is very large, and it by no means follows that an organization could be at the dictation of the companies in the National Board; it could not

be, so long as there are in that particular organization such powerful elements as the local agents constitute in New York or Chicago or any other city .

By Mr. Hurrell:

Q. Do you sometimes, Mr. Robb, test your schedules to see whether they are creating a sufficiently large fund out of which to pay expenses and losses in their particular class? A. Does the Exchange?

Q. Yes. A. The Exchange has no record of the revenue from any one class. It can have none because the companies have not identical classification. Our testing of rates is of this kind generally: when a new schedule is being prepared for a new class, supposed to be an automobile garage, or an old schedule modified becauses of changes in the business, it is customary tentatively to have on that new or modified schedule about sixty or seventy or a hundred risks, if possible, that are already rated on various older schedules, and see how those rates average in the first place, and then see whether they seem to produce the discrimination between individual risks of that class that the surveys indicate would be the proper measure of different elements of fire hazards. Then those rates in detail and in the average are passed upon by the rate committee, and they bring the board their several company experiences and the things that they have gathered from their figures, and their associates in a general way reach the conclusion that that result is too high or too low, or about right, or that some charge ought to be modified, because the present relation between individual risks is not quite satisfactory.

By Chairman Merritt:

Q. Is the tendency towards uniformity of classification so far as there is any tendency at all on the part of the companies? A. I think I cannot answer that question intelligently.

Q. I assume that the classification, so far as there is any, originated on the theory that it would be a guide, to a certain extent if not a sure guide, to rate making or to a determination of the desirable or undesirable kind of business, and I wondered — it has been

said here that some companies have attempted a thousand different classes, some less,— whether it had been your experience that there was a tendency towards a uniformity of classification at all? A. I think there is a tendency towards uniformity, which is incident to a tendency towards simplification and reduction of the number of classes. That is to say, in operation that tendency, and it would have a natural tendency also towards uniformity; that however is only an impression.

Q. I understand you take the position, as I get it, that the difficulty of classification is due to the fact that every loss has certain individual differences in the surroundings or conditiions, which practically differentiate almost every loss from every other loss? A. Every risk you mean?

Q. Every risk, I mean risk instead of loss, because if you had an identical condition of course you could make a classification? A. I think, sir, that schedule rating ——

Q. I just ask that question to see if I am wrong? A. Has pretty well accomplished the work of making the proper discrimination between individual risks of any closely homogeneous class; it has not gone so far in the work which has been under way of an equally long time of differentiating between classes; that is harder to do.

Q. Then it has not gone far enough; it is not perfect enough so that you can really rely on the results of figures; you have already stated that, that you cannot rely? A. We cannot rely upon a minutely subdivided classification.

Q. It must be relative to the different classes of risks, mustn't it? A. Primarily, yes.

Q. There would be sufficient of that essentially different so that the figures which were the result of computation would not in cold figures be anything that you could absolutely rely on? A. They never can be.

Q. You have said that they were uncertain and approximate, which would seem to me that granting that to be true, that they were the most certain element of your computation of rate, excepting that short of the skill which you have referred to in knowing what the rate ought to be — you must consider something of that kind every time? A. I do not think I shall be able to

give to counsel or to the committee any satisfactory idea of the difficulties of classification and of accurate schedule rating as based thereon, or of the credit that belongs to underwriters for having done so much towards solving that problem. The rates in New York City are as low as five cents, and as high as five per cent. There are risks rated more than one hundred times as high as other risks, and there are people who think that that discrepancy is not yet wide enough; there are others who believe that the highest rated risks are not even yet bearing their full share of the loss volume, and that the lowest rate risks are bearing more than their share. That is probably not true, but whether it be true or not it shows how wide a discrimination as between individual risks and as between classes of risks has nevertheless been made in the face of the untrustworthy nature, the misleading character of any tabulation of specific figures that can be made.

Q. Well, the tendency of the fire insurance business is to take it gradually towards that of an exact science, that is the accumulated experience of years of course must be important? A. The science of fire insurance will never become any more exect than the science of history; it deals with the same variety of element. Progress is made in both those sciences, but I would not be responsible for the word exact as applied to either of them.

By Mr. Hurrell:

Q. Are you familiar, Mr. Robb, with the practice of companies in the city of Chicago? A. No, sir.

Q. Did you ever hear that there were twenty or more companies in some organization of companies in that city that did pool their experience according to uniform classes; that is, each kept their classification in the same way and then submitted it to the organization where use was made of it possibly in the helpful way you are talking about? A. Yes, I think very recently a voluntary agreement was made among a comparatively small number of companies to do in a formal and regular way what had before that time been done more or less informally, and try to submit for common use the results of their study of their own classification tables. To a considerable extent, however, they found that they had no identical tables going back far enough to

be thoroughly useful. To carry that scheme out would require that they should all start at the same time with identical classification and wait until they got in time and in space data enough to be homogeneous, and I know that when they had done that most of it would have been outgrown by changed conditions in the underwriting business. They know it.

Q. They had been doing it for about five years? A. I should think not so long, but I don't know; I should think it was a matter of about three years that I first heard of it.

Q. Of course, an experience of five years, where the experience has been classified in a uniform way, would not be altogether outgrown, would it, considering the fact that the underwriters would be keenly intelligent about the improvements in the given classes, improvement in the risks, or deterioration in the risks; they could use that information, and these companies that have pooled their information in Chicago could use it intelligently with that in view, could they not? A. They would have no data whatsoever as to the varieties among the individual risks of the same class. It would not help in the least to adjust their ratings for any one class. The most you could hope for would be to throw a little additional light upon the relation and relative average rates of different classes; that is all.

Q. Of course, that is what the use of it would be. You would be able to test in a given class, and prove it, that you had either not collected enough premiums over a certain term of years or you had collected too much? A. If counsel undertook to prove it from the kind of daily reports that I reported a while ago, classified in the four different ways when they were the same identical risks, he would sooner or later lose confidence in the net results, wouldn't he.

Q. I suppose it is conceivable that the difficulty which led to that particular risk being classified in four different ways could be corrected so it could be classified in one way alone? A. It cannot. If you give me a city of five or ten thousand people or a country town, there may be a permanent homogeneity in a given risk. Such a dividing line between classes may be of some use in a city like New York or Chicago, where the characteristic risk is the co-tenant or multiple occupancy risk, with a thousand little

circumstances. The man does not live who can make a classification of that business that will be permanently valuable; it cannot be done. A new tenant moves in to-day; we think it does not affect the hazard, and later we find it does; if it is a higher hazard it is reclassified; but it ceases to be of any value as a classification for the building when it burns; it has changed in the meantime, since the last policy was issued, perhaps; it is constantly changing. Many of the loss figures that are classified right are charged to classes to which these risks did not belong when the policies were issued at all. It seems simple enough to me, but I am patient, and if I can throw any more light on it I will try to, but anybody who tries to make a mathematical result out of a schedule rating will lose his time.

Q. Of course, we have got your admission on the record, as I understand it, that is very helpeful? A. It is in a general way.

Q. So that a man, figuring now mathematically, they cannot be worse off than the board is now, because they are using it as you describe, with the object of having it put down apparently concretely? A. If he will learn to use it as counsel would use the material got ready for a speech, which amounted to great masses of figures and statements, and which, after he digested it, he left at home, and forgot and walked around the block to get the net results in his head ready for utterance, then he would make the right use of it. Don't take your notes with you.

Q. The idea is to make use of the experience of the companies now, isn't it? A. Yes, they go to that distance, sir.

Q. There was an attempt made, was there not, sometime ago by a committee of the Fire Insurance Exchange, or rather The New York Board of Fire Underwriters, to have the companies adopt a uniform classification? A. Many such attempts have been made. There are many devoted believers in a greater measure of value in minute classifications than the average underwriter can be persuaded to accept. There are many who would be glad to have it done. Efforts are made from time to time.

Q. So that if counsel believed, for instance, that there might be something in classification, he has convinced me? A. My company would value it; only you must not overestimate the value of that matter.

Q. Is it not a fact that one reason that the figures themselves have not been contributed is because one underwriter feels that whatever his experience may have been in the field, that that experience he has paid for dearly enough, and that he does not care to have some other underwriter benefit from his experience, and that that keeps him from willingness to contribute his experience? A. I think there still survives some little jealousy of that kind. At one time it operated more strongly, I fancy, than it does now, but with the breaking down of that barrier has come the new difficulty, that an increasing proportion of companies have abandoned or reduced their classifications as a result of their own experimenting, and no longer have figures, although they would be willing to give them if they would fit into any general scheme. They do not need in operating in the country at large anything like the number of classifications they would have in New York. They cannot afford to maintain a minutely elaborate classification available only in a small territory when they are doing business everywhere.

Q. What effect does the competition of factory mutuals have in this city, if any, with the companies that are represented upon your board? A. The competition of the factory mutuals in New York is practically not operative at all in the so-called congested district. The factory mutuals do not go up against the conflagration hazard nor any fraction of it if they can help it. It is limited, therefore, to substantial detached risks of superior construction and fully equipped with automatic sprinklers outside the congested district. It has some effect there.

Q. In just what way has it affected the companies that are members by representation upon your Exchange? A. Many years ago the companies formed in Hartford and Chicago two underwriting agencies known as factory insurance associations which were equipped with experts, and proceeded to advise manufacturers as to the erection and equipment of their plants, and to make for the companies contributing to the support of these bureaus or associations, rates in accordance with that result. Those are still in operation. They do not, however, operate in New York city where the same result is obtained, so far as it is obtained at all, by the use of the so-called restricted sprinkler schedule of the New York

Fire Insurance Exchange, which makes very low rates, and I may say correspondingly low commissions to brokers upon their best class of protected risks.

Q. When a member of the Exchange wishes to compete with a factory mutual over a given plant, does he have to get the permission of the Exchange to make a rate to meet the factory mutual in its rate? A. The competing rate is made if made by the member and other members, and is promulgated in the rate upon the restricted sprinkler schedule; he does not take separate action as they act on other risks.

Q. No matter how perfect the risk is, and no matter what his willingness to go on the risk, the lower rate then is promulgated by the sprinkler risk schedule, he cannot take it? A. He does not take it.

By Judge Bruce:

Q. Is the co-insurance clause attached to all policies which are issued in the Metropolitan district? A. Nearly.

Q. What exceptions are there? A. Oh, in some form of policy there is a kind of substitute for the co-insurance clause; I think it is not required on use and occupancy insurance, so called, and some minor forms of that kind.

Q. Is a reduction given on the rate by reason of the attachment of the co-insurance clause? A. The rate is based on the assumption that the eighty per cent co-insurance clause will be made, and a lower rate is in most classes made for the use of the 100 per cent clause instead. You heard Mr. Hardy figure the application of the mercantile schedule to a risk this morning, and at the end of his figure he made a deduction for the co-insurance clause. That percentage he deducted is the percentage found in that table for the eighty per cent clause, and it is assumed when the rate is promulgated that the policy will go in at that rate; and for most risks an additional ten per cent will be granted for the maintenance of the 100 per cent co-insurance clause.

Q. Just at this time, because it comes in logically, I would like to have you give the Committee your opinion and observation with reference to the eighty per cent insurance clause. Just let me ask your explanation and definition of it? A. I will give you first

the simple rule for finding out and how it operates, if that is of interest. Several people have already done it, and after they have done it in a manner that was very clear to me the next witness has been questioned as though he had made no impression, and perhaps that is unavoidable from the nature of the subject.

Q. No, that is on account of the obtuseness of counsel? A. It is for the same reason that if I went into a business place of any of these gentlemen or the law office of counsel I would bring first a considerable ignorance of the subject that I came to inquire about, so I am disposed to make an allowance, the same as I could want made for myself. Here is the rule: when either the insurance or the loss equals or exceeds eighty per cent of the value of the property the eighty per cent co-insurance clause does not operate in any way to reduce the collection of the assured. If either one of those, the insurance or the loss, is less than eighty per cent the insured will fail to collect such share of his loss as that shortage constitutes to eighty per cent.

Q. Can you tell me why it is fixed at eighty per cent? A. May I first tell you in my way the co-insurance clause is in use at all?

Q. Yes. A. It has already been told, and told mathematically and logically, and I do not know that any of you need what I am going to say, but sometime a perfectly concrete illustration that has not any theory in it will be more useful and easier remembered than a perfectly logical demonstration.

By Mr. HURRELL:

Q. I might say the reason I vote aye on getting this explanation into the record is because this is the one subject that the public generally misunderstands, and the correspondence at the office shows that, so I would be very glad for myself to have your concrete example in? A. During my administration of the loss adjustment bureau of the National Board of Fire Underwriters there occurred in the Ansonia apartment hotel building here in New York city almost as soon as the building was ready to open a loss that was adjusted at $14,000 as to amount. Then as now the eighty per cent co-insurance clause was required on all policies covering such property, and it was on the policies covering that property. Mr. W. E. D. Stokes, who controlled the Onward Con-

struction Company that owns that building, was and is financially independent; he did not have to protect any mortgages by carrying full insurance unless he wanted to. He knew that building which had not been so far completed as to have been paid for yet, perhaps it cost him two and a half millions dollars — everybody who knew anything about the building knew that it cost approximately that — his brokers who knew their business had advised him how much insurance he would have to carry not to suffer from the operation of the co-insurance clause in case of loss, and he declined their advice. Instead of carrying $2,000,000, he carried $400,000, just one-fifth of the eighty per cent clause called upon him to carry. He, therefore, had a right to collect under his policy, and after taking counsel with his attorneys and his bankers, and thinking the matter over for a few weeks, did collect the $2,800. That is what he was entitled to under that contract. And, now, suppose that the net rate on the property, after it is unloaded of expenses altogether, is for any given term of years — say, in order to approximate the truth, three years in this case — 70 cents, 7-10 of one per cent. Suppose again that on a property worth $2,500,000, of that construction and occupancy, is it reasonable to expect a $14,000 loss, or the equivalent of that, every three years; that also is not far wrong. Now, if he buys and pays for at 70 cents $2,000,000 worth of insurance to cover that period, he will have expended $14,000, when the $14,000 loss comes along, the companies can just pay it and break even, and no questions asked. If he has, however, contented himself with $400,000 insurance, and should get that also at 70 cents, he would have bought and paid for $2,800 worth of insurance; and with the co-insurance laws on his policy, $2,800 is what he would get when the $14,000 loss happens, and, in fact, what he did get. There again the companies have broken even, and have no complaint to file with the risk, or the class to which it belongs. But suppose he got $400,000 insurance, and paid his $2,800 for it, and has been relieved from the operation of the co-insurance clause, and along comes a loss, and he is entitled to $14,000 upon it, and he collects it, and on that risk the companies are far to the bad. Now, they deal in a little while with the results on that general class of fireproof apartment hotels. The repetition of

this experience makes that class unprofitable. Suppose there is but one other in the class, if you choose, and they find that because of the occurrence of these fires in this risk, the class as a whole is unprofitable. What do they do? They mark up the rate to the owner, or owners of other hotels or hotel of that class. They have to be bold enough, or rich enough or independent enough to carry $400,000 insurance on $2,500,000 worth of property to gamble against a small risk and a total loss. But they generally have mortgages to satisfy, and have to have insurance that would protect them if they had a great loss; and they, without any requirement of a co-insurance clause in the policy, have been carrying $2,000,000, a reasonable rate of value, on the average loss of that class; and on every such hotel they have been paying for $14,000 and drawing out $14,000; for them the companies have broken even; but because of the unique experiment in that class, the companies have not broken even. They have got to raise the class, and the rate of insurance, because the companies know that in the absence of the co-insurance clause the man could have gotten the full value of his insurance, and not the right value, as insured. Because a man can get a $25,000 policy, and the companies permit of other insurance; and when they ask how much other insurance he has, they are told it is none of their business; the contract doesn't require him to advise them on that subject at all; and they do not find out anything about it. Now, the effect on this class as a whole is that they are undesirable risks, and it will infallibly add, and its associates in the long run have to pay the rates on the class, and it will make the poorer and more prudent owners of other hotels of that class pay for the losses on the Ansonia hotel, in spite of anything you can do on earth, except attach a co-insurance clause to all of them. It cannot be got away from. That is all the co-insurance clause does. It equalizes rates in a class. It does not do anything else. It cannot do anything else. Somebody has twice called attention to the fact that here in New York there is a co-insurance clause applied to even household furniture policies, except that where the insurance in force is found to be less than $2,500. I will tell you why in New York, probably alone in New York State — alone anywhere in the country — the co-insurance clause was made

obligatory to household furniture policies, where there was any large value at risk. It was because George Gould had a fire once. He had felt, like Mr. W. E. D. Stokes, that because of the infrequent and small losses, that he did not need an indemnity for a total loss. He had some $25,000 worth of insurance on a total of pictures, furniture and what not, that runs into more figures than I have time to recount here; and a careless servant going upstairs with a gas taper, or what not, set fire to an extremely valuable painting on the stair landing. It was ruined. It was worth $40,000. Which is such an accident as commonly occurs in a household, and would be in my case represented by the burning of a lamp shade on the centre table in the library; it will happen again. He had no co-insurance clause, and the company paid the total loss of the risk, to wit, $30,000. That was a very trifling loss on the value involved. Let that happen often enough, and the class of fine dwelling houses and household furniture will speedily show a deficit, and the end will be, though they do not know from what particular risk or risks of that class that deficit comes, but they will mark up the class, and they cannot do anything in the absence of a protective clause like the co-insurance clause, and the result is that all owners of such property, though they may be paying for all they ought to carry, and paying for all they ought to, they will be made to pay the losses of George Gould and men like him on their under-insured property.

That is why the co-insurance clause is the only way of discriminating between lists of the same class so as to prevent the speculative, or rich, or adventurous owner from getting his losses paid by those who are more prudent, or less inclined to take large risks, or are obligated by circumstances of heavy mortgages, to carry full insurance to protect their mortgages.

Q. Why is it fixed at 80 per cent? A. I think there are two reasons, sir. I think there are two reasons that are especially operative in New York city. New York city is a great commercial center. The fire marshals' reports will show you that in Manhattan seventy per cent of all the money we pay out is paid on contents, not on structure. Remember that when you come around to the valued policy question again, please. Now, contents means in the main merchandise. The importers and whole-

salers and credit men's associations, all such bodies have always brought pressure to bear on their customers to carry not ten, twenty-five or thirty per cent, but pretty full insurance. They have always encouraged the maintenance of something like 80 per cent insurance to value. That tendency has impressed itself upon the underwriters to a large extent. There is not, in point of fact, any serious demand for a graded co-insurance clause in New York city, on any considerable proportion of risk, barring fireproof structures, where allowance is made in the very low rate for full insurance anyhow. In the main the insurance public, and the people who are interested in the credits and others, want them to carry large insurance.

The other reason is this, I was very much interested in the illustration that Professor Whitney gave of the relative rate at which 60 per cent, 50 per cent, 30 per cent, loss to value occurred in a collection of some 10,000 risks of the frame mercantile class. But you can carry his figuring far enough to show approximately how much less any particular co-insurance clause ought to make its policy worth, than any particular co-insurance clause requiring a lower percentage of insurance. The difficulty as I view it is this: If you had traveled outside the class or dealt with the frame mercantile class, it is absolutely certain that the percentage of partial losses, of different grades, would have varied constantly. Though you had kept it within that class, it would vary. If he had left San Francisco and gone elsewhere; if you had taken any one place, and one class, it would have varied, with each change in the place, or the introduction of new water mains, given any of those things, and the ratio between any of those classes will vary so fast that no discrimnatory source of insurance ratings can be made to apply to it. We are not swift enough. It is all we can do to keep up with the changing conditions as it is.

Now, I want to say of the co-insurance clause one other thing. So far as I know there never were but two States in the United States, in which there were commercial cities of any size, in which the co-insurance clause was forbidden by law. One was Missouri, and the other was my own State, Ohio. In Missouri the merchants were wise enough in advance to secure an exception from its operation in behalf of the only large cities in the United

States, Kansas City, St. Louis and St. Joseph; they would not stand for it. In Ohio the wholesale merchants of Cincinnati, Cleveland, Columbus, Dayton and Toledo, combined, and in the course of two or three years after that law was passed secured its repeal altogether. That is what happened in the only States where the anti-co-insurance law was put in effect, and there were commercial cities, where a commercial business was the main and dominant feature in the State's insurance business.

Q. The State of New Jersey has such a law, has it not? A. An anti-co-insurance law?

Q. Yes. A. No, it has a law which requires that if the co-insurance clause is attached, a statement shall be made calling the attention of the insured to the fact that a concession in rate has been made, if it is attached. It is in constant use there.

Q. I notice, passing from the question of rates, that under section 1 of the agreement, one of the other purposes of the New York Fire Insurance Exchange is the promoting of an equitable adjustment of losses; does the Exchange concern itself with the adjustment of losses? A. That function was never exercised, for the reason that three years after the Exchange was organized, and before it had reached any practical result in the adjustment of losses at all, that work was taken up by the New York Board of Fire Underwriters, through its committee on losses and adjustments, and it has since been handled by that committee. That clause does not now come into the operations of the Exchange.

Q. Another object of the association is the ascertainment of proper and safe methods of the construction of buildings; does it concern itself with that, or is that taken charge of by the New York Board of Fire Underwriters? A. Both. The New York Board of Fire Underwriters deals largely and has almost exclusive jurisdiction over those questions of construction and equipment and protection, which are absolutely fire hazards, which involve the introduction of dangerous processes or materials or conditions, but regardless of the effect thereof on rates. Its results are reported to the Exchange for use in rating. So far as concerns original construction, that is dealt with directly by the Exchange, as I illustrated in the case of the Everett Building this forenoon. Plans and specifications are gone over in the utmost detail in

advance; every precaution that can be suggested, that will have any bearing on the final rate,' is suggested to the architect or owner, and the utmost attention is given to the encouragement of proper construction by the adjustment of rates that favor, or penalize, virtues or defects of such construction.

Q. One of their objects is the prevention and extinction of fires; how is its activity in this respect employed? A. To a large extent the action of the underwriters is brought to bear upon the fire department, and water supply department, for an improvement of the regular fire protection of the city through the New York Board of Fire Underwriters, and not through the Exchange. But rates are adjusted according to the improvements made, and, in particular, the eqiupment of buildings as to automatic sprinklers, stand pipe and hose, and all manner of appliances for the extinguishment of fires, and everything of that kind is taken into consideration in the fixing of rates; and questions are constantly being asked and answered at the Exchange counter, and of its staff, either by the owners, or through the brokers, what can I do in addition, and we tell the man what we suggest in the way of making specific improvements in construction, equipment, or change of occupancy.

Q. You also have a committee on brokerage, have you not? A. Yes, sir.

Q. It is the function of that committee, is it not, to issue a broker's certificate to an applicant duly qualified to receive such certificate? A. It is.

Q. And it is also true, is it not, that no brokerage shall be paid to any person not so certified; is that correct? A. It is.

Q. Now, are there fire insurance agents in New York city, as well as fire insurance brokers? A. Yes, indeed.

Q. Will you give us the distinction between a broker and an agent, here in the city of New York? A. An agent is the commissioned, authorized representative of the fire insurance company. He can sign policies in its behalf, if he is the head agent, in charge of the operations of his company, as an underwriter, in this territory he is a member of the Exchange. If he is a branch or Brooklyn agent he is not necessarily a member of the Exchange, though his company may be. A broker is a specialist

whose business it is, in behalf of the public, of the clients whom he can secure among property owners, to obtain orders to procure insurance, to place those orders, and to procure that insurance with the agents or head offices of the companies here in New York. And he also is paid a commission for doing so.

Q. Whom does an agent represent? A. An agent represents a company.

Q. And binds that company, does he? A. Binds the company.

By Judge Bruce:

Q. Who does the broker represent? A. Well, primarily, the assured.

Q. And binds the assured? A. And binds the assured.

Q. By whom is the agent paid? A. They are all paid out of the same fund, in the last analysis, if counsel please.

Q. But who pays him? A. The broker retains from the premium, which he turns over to the agent of the company whose policy he has procured, a commission, renders him an account of his operations at that office during the months, and credits himself, and obtains the commission due him. The agent does the like with his record, or pays the commission, if he has one.

Q. In both instances the fees of the broker, and the salary or commission of the agent, are included in the premium, are they not? A. Yes, they are paid out of the premium.

Q. As a matter of fact, it is true, is it not, that both broker and agent are paid by the company? A. Well, the assured pays the premium.

Q. He pays everything? A. If the commission and salary are paid out of the premium. It is perhaps one or the other.

Q. Take your salary as president of the Exchange, the assured pays that? A. I am only the manager of the Exchange.

Q. Pardon me, sir. The assured finally pays every charge? A. Yes, in the maintenance of the entire business.

Q. He also pays the broker's commission? A. But in the first instance the company pays the broker. If the assured does not pay the company, I do not see that the company does not lose. But it is a matter of accounting.

Q. But it is a matter of bookkeeping. A. He does just what

the agent does. They both keep out their pay. I cannot quite distinguish that, but I will agree with you whatever way you wish to put it, if we agree on the facts.

Q. Isn't it a fact that the brokers and agents fee or salary is paid and fixed by the company? A. Well, it is fixed by the company by agreement with both agent and broker. Both are fixed by agreement to which the company is a part.

Q. There is no doubt in your mind about it? A. None at all. It is purely a matter of how you state it.

Q. But there is no doubt about the fact? A. None at all.

Q. When a certificate is issued to a broker, he signs one of the pledges which I show you, does he not? A. Yes, sir.

Q. These pledges are divided into two classes, are they not? A. Class 1 and Class 2.

Q. Class 1 provides, does it not, that in consideration of the commission or brokerage at the current rate that may be fixed and established for the time being, and to be paid by members of the New York Fire Insurance Exchange, the broker hereby promises and agrees that he will not, directly or indirectly, make any rebate to the assured, nor directly or indirectly pay to any person not holding a broker's certificate, any commission or brokerage. Nor will he receive from any company or agent, directly or indirectly, any recompense for the business placed with them, permitted by the rules of the Exchange. Isn't that clause 1? A. Yes; that is right.

Q. Clause 2 reads, does it not: "In consideration of the payment to be made to me of an additional five per cent to the commissions or brokerages as provided for broker's pledge, clause 1, signed by me, I hereby promise and agree, in addition to said pledge, that in placing insurance I will give the preference to members of the New York Fire Insurance Exchange, and that I will not place any risks with those not members, unless I cannot secure sufficient insurance on such risk from members of the Exchange. In which case I agree to file with the secretary of the Exchange, within one week of so placing, a list of such outside company or companies in which same has been placed, with the name of the assured, location of risk, and the amount of insurance given them." Is that correct? A. That is right.

Q. Now, no broker of course could sign pledge No. 2, unless he has already signed No. 1? A. That is right.

Q. Now in the event that any broker violates any of the conditions or provisions of either one of the pledges which I have read, what happens? A. He can have his certificate withdrawn.

Q. Have it withdrawn, or do they perforce withdraw the certificate? A. It is competent for the Exchange to withdraw a certificate.

Q. And if the certificate is withdrawn, what is the result to the broker? A. A certificate based upon his having signed both pledges would not, if it were itself withdrawn, preclude him from retaining and holding a certificate based upon his having signed the first pledge. It would thereafter enable him to continue to collect a commission or lower or minimum rate from members of the Exchange.

Q. No brokerage can be paid to any person that is not certified by the Exchange, can it? A. That is true; I am only calling attention to the fact that there is but one offense which could be a violation of Pledge No. 1, that is the making of rebates by the adoption of commission. Many offenses might be in violation of Pledge No. 2.

Q. But if he violated Pledge No. 1 and a certificate is withdrawn no brokerage can be paid him for writing insurance of any members of the Exchange? A. If he violates both pledges, brokerage could not be paid him by members of the Exchange.

Q. Is it possible for any assured or for any person desiring to be assured in the city of New York to act as his own broker? A. Not and get a commission. But of course, he need have no broker to obtain insurance.

Q. If he acts as his own broker, he pays to the company the commission which would be included if he employed a broker? A. Yes.

Q. The agreement is that no certificate shall be issued to any employe or clerk of the insured except the broker. Also that certified brokers shall pledge themselves to receive no business from brokers not members of the Exchange, that is not permitted by the rules of the Exchange, that is correct, is it not? A. That is right.

Assemblyman FOLEY: How many brokers are there who are licensed brokers? A. Just under 7,500.

Chairman MERRITT: How much are the brokers' commissions and the agents' commissions? How much do they amount to? What is the percentage together? A. I have no information about the commission paid by the head agents, whether it is by commission or otherwise. The agents are not supervised in any way by the Exchange. The Exchange deals with commissions paid to brokers and with commissions allowed to branch officers through which a considerable part of the small store and store and dwellings business is written. It does not supervise commissions paid to head agents.

Chairman MERRITT: Do you know what the proportion of the entire rate paid on the policy for his commission approximately bears? How much it cost the assured to be assured? What percentage does he pay on the gross? Who pays for the machinery by which he gets up to the institution that insures him? A. The average broker paid in New York is probably under rather than over 15 per cent; very much of the business is written by the companies that have salaried employes at their own counters; and therefore do not pay an additional agent's commission. They paid a clerk, an employe. How much is paid in addition for head agents' commissions I could not very well estimate.

Q. The assured pays just as much as though he had hired a broker? A. Just the same.

Q. Anything allowed would be in the nature of a rebate? A. Yes, sir.

Chairman MERRITT: So he pays anyway. I was curious to know what proportion was represented in that part of the business which has to do with the question of getting the insurance? A. I fancy it is under 15 per cent on the average. The paper I showed you this morning indicates the different classes.

By Judge BRUCE:

Q. An agent who represents one company is not permitted to represent another which is not a member of the Exchange, is he? A. He is not.

By Senator Foley:

Q. Have there ever been any means taken to reduce the payment of brokerage? A. Yes, there have been several more or less urgent movements in that direction. I am a little new at the management of the Exchange and I hesitate to express opinions upon so difficult a question, but I want to state a fact or two which may help you to reach your conclusions. There are, I have said, something under 7,500, call it 7,500 certificated brokers. The average commission which they earn in the insurance business, excluding any outside earnings; for they may be real estate agents or they may earn money as brokers in other lines of insurance which work nicely with the fire insurance business, and for the maintenance of which they are certified, and which has some subordinate value — it cannot exceed $500 or $600 a year — now there are, I suppose, a hundred brokerage firms out of that 7,400 or 7,500 who do more than 70 per cent in volume of all the business that is done by the brokers. Some of them have two or three partners in the firm and large staffs of clerks. They employ fire insurance engineering experts and have very expensive plants to maintain. If you deduct those and their earnings, you have left a sum of brokerage commission which divided among the other 7,400 cannot average $200 a year. Now, it is manifest that for a great number of those a broker's certificate has a value. It gives him additional standing as a real estate man and as a broker on miscellaneous insurance risks. Of course its value is not great, and it is probable that if the insurance such brokers now place, the most of which is on stores and dwelling houses, the probability is that if these brokers did not do the business that it would come direct to the companies, or to the branch office of the companies. It does not require any great examination of the schedules nor any considerable preparation in writing the clauses of the policy, nor anything else in the way of expert service. But it is a curious thing that nearly all the complaints made about the New York Fire Insurance Exchange which reached the public prints and the city of Albany, or such an investigating committee as this is that heretofore, I do not know what the fact is in this instance, but that heretofore those complaints have arisen from brokers who have either failed to obtain or who have lost their

certificates. Liberal as has been the action of the Exchange, it has never satisfied the men who wanted the certificate for subsidiary co-related purposes. But these men are numerous, and they have a standing in the district associations and elsewhere, they are able to make a loud and enduring noise in the ears of the listening legislator, and I do not think that you and I can do very many things to reduce the number of those brokers until political influence has ceased to be the factor; it is in business and everything else all over the country.

By Judge Bruce:

Q. Where there is such a loud and enduring noise there is usually some reason for it? A. Yes, sir.

Q. Where there is some smoke there is always sure to be some fire? A. Yes, sir; but the reason the man wants that certificate is to show it to the party to whom he is trying to sell real estate.

Q. For what purpose? A. It gives him a standing, as between the buyer and seller, and it helps him in the conduct of his other business.

Q. Have you had many instances of the kind? A. I am glad to say that I am not brought in personal contact with the brokerage department. If I were, I should not have survived during the last five months in which I have been manager of the Exchange. The broker's certificate committee meets here once or twice a week, and stays one, two or three hours, and receives reports on this question of brokers' certificates. There is brought into them a great mass of papers, which I will try to show the Committee if they visit the Exchange office to-morrow, as my invitation runs, and they go over the record of these applicants for brokers' certificates, of the brokers who have had charges preferred against them. They show the utmost patience and willingness to go into the finest details exacted from them. Not very long ago a broker lost his certificate on charges which involved this record. That he had been advertising for a young man to come into his office, and be educated in the insurance business on the making by the young man of a deposit. He had gotten the deposit in succession from a great many applicants for that position. He had rapidly, and in succession, received money from

these young men without returning any of the deposit. He got into trouble, and his trouble developed simultaneously with the Exchange and with the public authorities in the city of Brooklyn.

And he lost his broker's certificate, and he served a term in the Kings county penitentiary just one day shorter than would have lost him his citizenship. When he got out the judge who had sentenced him, and who had no different statement of the facts to go upon than I have given you, asked the Exchange to restore the certificate of this broker and to send him out as a representative broker authorized to do business on account of the Fire Insurance Exchange, a man in whom the public might have confidence.

By Senator Wagner:

Q. Is that what you meant by political influence a moment ago? A. No, that was not; it has no immoral quality at all. The political influence that I spoke of is the influence which a man who is not legitimately entitled to a broker's certificate brings to bear upon the Assemblyman, or district leader, or other political friend who has influence for him, and who proceeds to make the necessary loud noise that will result in the issue of the certificate. It is not peculiar to the insurance business; it is only rather aggravated in our business.

By Judge Bruce:

Q. If a sufficiently loud noise is made, does the Exchange issue the certificate? A. In the individual case loud noises do not cut any ice, but in the main, loud noises do interefere with the heroic reformation of the brokerage certificate department, as, perhaps, loud noises interfere with other reforms on a large scale in our business and in other businesses.

Q. If the Fire Insurance Exchange finds itself hampered by reason of the importunities of district leaders or men interested in politics they have the remedy in their own hands not to suffer from it? A. We do not suffer from it much; this committee has a very hard road to submit to; a man don't stay there very long; they come in and clog up the ante-room and our counter with

an attendance that is denser in several ways than it ought to be, and they also make some trouble at the counters of the office, but it is not anything great; it does not represent any serious matter or loss of income all told; these men do not represent a large proportion of the commissions paid.

By Mr. HURRELL:

Q. You did not mean, speaking of political influence, any influence the small brokers might bring to bear if an effort was made by the Legislature to so restrict the securing of certificates as to cut off a lot of the small brokers, did you? A. I am willing to be quoted as meaning that.

Q. You mean that the fact that they might lose some of the revenue which would contribute to their support would influence the Legislature in taking any drastic action? A. You would need to enlarge the room in which the Committee on Insurance has its hearings on a bill of that kind.

By Senator WAGNER:

Q. Do you know of any instance of that kind? A. If I commit myself will you agree not to ask the next question what they were. I know the instance, but I think I ought not be asked to give names.

Q. I mean where insurance legislation which you think is for the public good, for the benefit of the public and insurance companies was defeated by just such influences as you speak of? A. You mean on the part of brokers, for instance?

Q. Yes. A. I do not know that any legislation aimed at the multiplication of brokers' certificates has been held up or has had a hearing. I know when the project is agitated at all we find at once that wires are pulled and protests come into us from unexpected sources. It has never gone so far as to be the subject of formal hearing.

By Judge BRUCE:

Q. Don't you think that your Exchange which licenses the brokers and regulates their conduct as it does, and pays him, don't

you think that he ought to bind the company and not the assured? A. I think not, sir.

Q. Why not; you select him, regulate his conduct and pay him; why shouldn't he bind by his action? A. I do not admit we pay him quite in the sense your question now puts it. He gets it out of the assured by way of commission.

Q. You fix the amount which he will get? A. Yes.

Q. And you incorporate that in the premium? A. Yes.

Q. And you issue him a certificate? A. Yes.

Q. You regulate his conduct? A. Yes.

Q. Why shouldn't you be bound by that? A. I will try to tell you. The ancient doctrine that in the interpretation of a doubtful instrument drawn by one of the two parties and accepted by the other in the making of a contract must be such as to run most strongly against him who drew the contract, operates, and ought to operate to the disadvantage of insurance companies in doubtful points as to the construction of any clauses or riders or language which they prepare and attach to the policy and require the assured to accept. Whether that goes the length of interpreting language of the standard form prescribed by law in the same way we need not here inquire, because that is not under discussion; but the policy form which describes the insured property and around which will centre whatever of ambiguity is likely to be found in the contract, whatever of uncertainty or trouble is likely to arise in the adjustment, is prepared by the broker for his principal from his study of the peculiar conditions of this man's business and needs. It is submitted to the company, and if the risk is accepted, that form is attached and the policy issued bearing that form. Now, the contract of insurance is of the utmost good faith. It presumes fair dealing on the part of any insured who makes any representation whatsoever. It presumes the utmost good faith on the part of the company also. But in the construction of doubtful language presented to the company by the representative of the assured, it is but right that the law of agency should work to construe that language if it is doubtful against the principal whose representatives framed it, in this case the broker. If the broker, masquerading as the assured's representative, could prepare a policy form full of such penalties as knowledge of the business

renders it easy to create, and which no company can possibly find out by any casual examination, and could then bring home to the company, as agent, responsibility for that act, a very serious moral hazard would have been created which does not now exist.

Q. In all parts of the State except the Metropolitan district and Buffalo the agent of the company binds the company doesn't he? A. He does here.

Q. I mean, all insurance written in all parts of the State outside of the Metropolitan district and Buffalo is written by agents? A. To a considerable extent, not altogether. New York brokers place a great deal of insurance on property outside of New York.

Q. But practically the insurances in all parts of the State except the Metropolitan district and Buffalo are written by the agents of the company, are they not? A. Yes. Counsel should remember what is true in his business is true in all the other kinds of business.

Q. And those agents bind the company, do they not? A. Because they are the company's agents they must and they do.

Q. Why should it operate differently outside, say in the city of Binghamton, or Elmira, or Syracuse, or Rochester, than it does in the city of New York? A. For the reason that the man who makes the representation to the company there is the assured; he goes and can go to the office of the company. The business does not have to go through one or two or three hands to reach the issuing office. The broker is a creation of the congested centres of population, not only in the insurance business, but in every other business. You do not have brokers in the metal and allied trades excepting in the large cities. What is a Custom House broker, what does he do, except in the large cities? Why should there be any system of brokerage? Why, because in a great community it is not possible for principals to come together as they can in smaller places. The intermediary in a congested section is as necessary as any development of civilization. You cannot exclude him; conditions require him, and the brokerage business is not different in the insurance world from what it is in any other world. The broker abounds in New York. Look at the business directory of New York city and see under the word broker the different kinds of brokers, and see the small towns — there are none.

Q. Do you know any class of brokers in the city of New York who do not represent the people who employ them? A. Any general broker is paid out of the money that passes in that business. There are some kinds of business where both the buyer and the seller may employ a broker and agent ——

Q. Take the real estate broker, who pays him? A. Ordinarily the real estate broker is paid out of the purchase price of property.

Q. Who pays him, the man that employs him? A. No, sir, not always, he does sometimes; in the small town he does not.

Q. I am talking of here in New York; isn't it an incongruous situation that the man selected by the company, that is, a man licensed by the company —— A. The assured most carefully selects him himself.

Q. Whose conduct is regulated by the company, and whose fee is fixed by the company, and who is paid by the company, should not bind the company; doesn't that present a rather incongruous situation? A. I do not accept the statement as quite a fair one of his relations, but I am quite sure that the honest broker as he operates in New York ought not to bind anybody but his principal, the assured, in the making of the contract, he is the agent of the assured whatever else he is.

Q. I know he is under the law, but shouldn't he under the facts be the agent of the insurer? A. Surely not, for the reason I tried to give you a moment ago.

Q. That is the only reason you have to suggest? A. To counsel I am sure it is adequate.

Q. But have you any other in mind? A. No other, no, sir.

By Judge Bruce:

Q. You have something else there I know you want to speak about; will you take up those matters? A. Let me examine. I fancy there are subjects in the brief or statement of the operations of the Exchange now in the hands of the members of the Committee which they may not have had time to examine and base questions upon. If any of them have reached a point where they have questions to ask upon that material I should be glad to answer those questions before volunteering anything.

By Chairman MERRITT:

Q. There is one thing I would like to ask, as a matter of practice, going back to something that was talked about a good while ago, and which has been very copiously talked about, which is the co-insurance proposition; suppose a person wants to insure property less than the eighty per cent clause, can he get that sort of insurance? A. He cannot get that in New York city, no, sir. There are places where he can. I have explained the reason why.

Q. I understood your explanation, but I did not know but what there might be a special arrangement by which a person could get it if he wanted to? A. Our rates assume the existence of eighty per cent of insurance, and we find it here impracticable to figure the variation for the different percentages on the class of business we have to write.

By Assemblyman FOLEY:

Q. You did not testify to anything about the adjustment of losses. I had in mind one proposition,— the New Jersey statute I think provides for the choice of the umpire, where the appraisers disagree, by the court, and that matter was agitated in Albany last year, it did not become a law. What do you think about that proposition? Is the company in any way favored by a dispute between two appraisers, and isn't it the usual result that someone more favorable to the company is chosen as umpire rather than a person favorable to the assured? A. I think not. I think it would be in a few cases a means of shortening the adjustment if an umpire could be chosen after a reasonable delay by the appraisers and failure to agree.

Q. I think it is thirty days in New Jersey? A. Yes, but it is a rare thing when put into effect; it is a rare thing in New Jersey. The trouble is there when a party applies to the court for the appointment of an umpire he thinks he has the court's ear a little prematurely before there is any need of it. In New York the practice is if either party finds what seems unreasonable delay on the part of appraisers in choosing an umpire, to perhaps permit the withdrawal of one or both appraisers, and nominations of others, so that there may be no unnecessary delay, so that in practice I think it has not been missed as an aid to adjustment,

and I know of its having been occasionally abused in New Jersey. It is only occasionally used there. It is not frequent in that or any other State where a similar provision was in force.

Q. But you think in some cases it would expedite a settlement or adjustment? A. I think it might, but of very little value; and, as I say, it is capable of abuse. The local judge might on a very insufficient representation hastily nominate somebody related to one party or the other, he had no opportunity to go into it, and at the request of one party, rather than the other, he might make the selection; it does not really secure impartiality. In some few cases it might shorten the adjustment. On the adjustment of losses I want to say just a word. I have seen the statement magnified as to the litigation arising from loss adjustments. Some literature which I saw, attributed to Factory Mutuals, contain the statement that the law and loss department of the stock companies were particularly overworked departments. In the eight and a half years in which I managed the adjustment bureau of the New York Board of Fire Underwriters we had adjusted under our direction between fourteen and fifteen thousand losses; they were the large losses, the losses involving more than three members of the board. Numerically they are not one-fifth of the separate losses that occurred and are handled by all companies, but in volume of loss involved they are sixty per cent, or approximately sixty per cent, of all the loss payments. In these fourteen or fifteen thousand separate cases, involving the most complicated adjustments that occur in New York, with the most opportunities for disagreement, bad blood and litigation, suits were brought on the policies of one or more companies involved in twenty-seven cases out of nearly fifteen thousand; not two-tenths of one per cent gave rise to any suit on any policy. If there is another business presenting so many difficulties in its conduct, the effort to agree on value and loss, in the absence of the property, or in the presence of a difficult and irregular damage, if there is any business comparable to it in which the litigation is as small as that, I cannot think what it is.

By Mr. HURRELL:

Q. I want to ask you whether in that particular case you mentioned of the broker whose certificate was revoked because he had

taken the money of the unsuspecting for teaching him the business, whether when he applied again for a license any hearing at all was granted him by the board? A. I don't know. We had the record of his conviction. That was before my connection with the Exchange, and I cannot from recollection or knowledge really tell you, but I know that much about it without that record. He had a hearing when his certificate was withdrawn. He has the right of appeal.

Q. Will you kindly look that up? A. Whether he had a hearing on his application for a new certificate?

Q. Yes, the record of the case when he applied for a new certificate? A. You understand his right to a hearing is where charges are brought against him. He had that hearing. He had a right of appeal and he took it. He had all the hearings that were provided for when his certificate was withdrawn on charges. I don't know whether he had another hearing on application for a new certificate; I am not quite sure.

Q. I asked that question because that was one of the complaints that was brought to the counsel of the Committee? A. Yes, sir; as a lawyer I would admire it if it was the only complaint.

Q. That is not the only one? A. I mean if that was the only complaint in that case.

By Judge Bruce:

Q. Just one more question to-night. In the event that a property owner in the Metropolitan district feels that the rate on his property is too high, what is his remedy? A. He writes me a perfectly lovely letter; he never fails to do it, and I take up his case, and I send for the survey and rating of his risk, and I go all over it, and if I find, as in more than ninety-nine cases in a hundred I find that he got equal and exact justice as compared to his neighbor owning a similar risk, I break to him as gently as I can the news that I cannot help him, and he is ordinarily content, strange as that seems.

Q. What if he says he and his neighbor and all the rest of them are rated too high? A. Then they form a committee; if they are not content they write me a letter; they meet as a com-

mittee and talk it over with me in the office, and produce what they call statistics; sometimes they are surprisingly full and sometimes they are very poor statistics, and present their case for a reduction of rate on their class of property, and I think it over, and I call on the members of the Exchange for any information that I can get from them, and I submit the result of this petition to the rate committee, where it has a very fair hearing indeed, for men some of whom have very close personal ties with this business or that, representatives of this or that business, who are desirous of cultivating their good will, and who would be glad to be known as having been active in procuring a reduction of rate on that class of property, and who are very likely to stretch the limits of the Exchange rules in the effort to satisfy any approach to a reasonable complaint, and sometimes the result is the reduction of the base rate. Sometimes the result is the promulgation of an order, reducing at the counter, as it is called, ten or fifteen per cent the rate on that class. That means that it is going to be held under inspection at that reduced rate for a while and its results in a way judged of. Sometimes they say as I would have had to say, as I did have to say to the representatives of the fireproof hotel business, so far as it goes your case is good, but it does not go far enough to be a basis for any underwriting proposition whatever. If over a larger area or a longer period of time the same showing could be maintained, we would have to throw up our hands and modify the rates on that class of insurance, but the information is so inadequate we do not feel justified in disturbing that rate, and they are again well content with that answer in many cases. There is very little complaint of the action in general or in detail of the New York Fire Insurance Exchange from the large owners of property or from the large mercantile bodies and associations doing business in New York. They like to know what they can rely upon. They like to know what they get as between themselves and some other trader, as between himself and some other man, a square deal, that he can tell to-day what the rate on the building he has not begun to erect will be if we live as the New York Fire Exchange and he does what he says he will do to get that rate, and they appreciate it; and they come to us for advice as to what instructions they

should give the members of their association to get a lower rate on the ordinary risk of such member, and we give it, and they issue just such advice constantly. I had a call the other day from the committee of the Credit Men's Association to that very effect.

By Judge BRUCE:

Q. That class of men are usually pretty well able to take care of their own interest. What about the little fellow, the small property owner, the man who does not belong to some powerful combination, that comes with his little modest complaint; what consideration is given him? A. Well, the typical case, I suppose of the forlorn and independent party who is the owner of a modest dwelling or the contents thereof — the rate on brick buildings in the New York city flat is ten cents. Take that in connection with the living expenses of the company and they charge nothing for profits or conflagration reserve, and the company or companies that do all there is of the brick dwelling business in New York city would have to see to it that they did not have the equivalent of one loss in 1,667 such risks in a year, or they would lose money. Now, in a block between avenues and streets uptown, if you please, between Amsterdam and Columbus avenue, or any other two parallel streets at the regular distance apart, two parallel avenues I should say and between two streets, say 100th and 101st streets, there may be 67 such brick dwellings if the block is built up with dwellings altogether. You will have to take twenty-five such blocks, and go from 100th street to 125th street, or a mile and a quarter, the width of that long block, to find risks enough of that class to include one risk that can be destroyed, or ten risks that can have a ten per cent. damage in that entire area without putting the insurance companies to a net loss on that class of property. I do not believe that anybody thinks who studies it, that he is outrageously treated in the matter of dwelling house rates, when, in addition, he considers that the policies are small, and that the expense of writing, the mere clerical work of handling the business, is proportionately large on such business. I am ashamed to pay only what I do upon my frame dwelling in the Borough of Queens; when I see the procession of careless servants who go through that house and throw lighted

matches on every article of furniture in it whenever the occasion arises, when I see the broken mantles of gas burners and smell the overheated furnace, and catch myself doing similar risky things every day, and consider the houses that have burned in whole or in part within sight of my residence, and then reflect that at the rate I pay only one total loss or the equivalent of one total loss in about twelve hundred such risks per year, say in more than a square mile of suburban territory, can happen and leave the companies a profit, I do not feel proud of paying so little money as I do.

Q. You never suggested that the rate should be increased, have you? A. I never asked for a commission on my premium.

By Assemblyman Foley:

Q. As a matter of fact there are often complaints from householders, there have been? A. Very rarely indeed.

Q. How many such complaints have you had? A. I want to say one thing about that class of property because it is in the general class of so called preferred property, that I think has so far been overlooked. I heard a representative of the Insurance Department lay down the proposition that the low rated property was habitually the preferred property because the profitable property. That is only partly true. There are low rated risks that are not profitable at all. He made the further statement that it was upon low rated risks that high commissions were paid. That again is only partly true. The lowest rated risks we have in business in the congested districts get the lowest commission paid to brokers, which is ten per cent. The lowest rate we have of any kind are perhaps the sprinkler risks which get the lowest commission paid to brokers of five per cent; but there is a reason why the dwelling house business has traditionally in the country at large been deemed to be a preferred class, over and above any question of the profit made upon it in the long run. That preference was largely created by the competition for that class of business of small and middle sized companies, who were very desirous that whatever profit they made year after year in a period of ten or twenty years should be as nearly stable as possible from year to year in order that the dividends to their anxious stockholders

might show an even result, a great advantage to an investor in the stocks of such companies. It stands to reason that if the income of a company is made up of a very large number of risks instead of a smaller number of risks for the same volume of premium earned, the stabler, evener average result can be secured on a business which in the long run may be no more profitable, but which will, year by year, yield the same average dividend to stockholders, to some extent, at least that explains the creation of the so-called preferred class. I doubt if a dwelling business in New York city at present rates and commissions is specifically preferable from an underwriting point of view to other classes. I have seen a whole class, as of farm property in the State of Ohio pass in a few years from the preferred to the nonpreferred class, and the rate go up from ninety cents to $1.50 for five years. That was immediately after the passage of a valued policy law. You have yet to hear from me on that.

Chairman Merritt: I guess we had better adjourn until to-morrow. We will adjourn until 10 o'clock to-morrow.

Adjourned until to-morrow, Friday, December 2nd, 1910, at 10 o'clock A. M.

TWENTY-FOURTH PUBLIC SESSION OF THE LEGISLATIVE INVESTIGATING COMMITTEE.

Aldermanic Chamber, City Hall.

New York, *December* 2nd, 1910 — 10 a. m.

Present — Hon. Edwin A. Merritt, Jr., *Chairman.*
Hon. Alexander Brough, *Vice-Chairman.*
Hon. Robert F. Wagner.
Hon. William W. Colne.
Hon. Frank L. Young.
Hon. Victor M. Allen.
Hon. James A. Foley.

Hon. M. Linn Bruce, *Counsel.*
Alfred Hurrell, Esq., } *Assistant Counsel.*
Isidor J. Kresel, Esq., }

Chairman Merritt: The Committee will come to order.

Judge Bruce: I will call Mr. Jenness.

Frank W. Jenness, called as a witness and sworn, testified as follows:

Examination by Mr. Hurrell:

Q. Mr. Jenness, what is your business? A. I am secretary of the Underwriters' Association of New York State, headquarters at Syracuse.

Q. What is that association? A. It is an association composed of special agents of insurance companies, otherwise known as field men.

Q. And where is it located? A. Syracuse, N. Y.

Q. And what is its purpose? A. Well, let me see, I will quote from the constitution: "The purposes of this organization are to promote a systematic interchange of information, and co-operation among field men, for the proper conduct of the business of fire insurance, and the making of just and equitable rates for the companies' representatives, as a guide to the character of the risks in this territory."

Q. Is it an association only, or is it incorporated? A. Not incorporated.

Q. Merely an association of field men? A. Yes, sir.

Q. How long has it been in existence? A. About twenty-six years.

Q. And with this same avowed policy? A. Yes, sir.

Q. How many members have you? A. About 124.

Q. And how many companies do they represent? A. Eighty-four.

Q. Do you know the number of companies that are operating in New York State? A. Well, upwards of 170.

Q. Now, what is the jurisdiction, and over what territory does this association have jurisdiction; in what territory does it make rates? A. All of the counties north of Putnam and Westchester, with the exception of Buffalo and Tonawanda.

Q. What is the answer? A. All of the counties north of Putnam and Westchester counties, including Erie county, but excepting Buffalo and Tonawanda; fifty-two counties.

Q. Fifty-two counties? A. Yes, sir.

Q. In your answer concerning the number of companies in New York State, as I understood you, there were about 170? A. I referred to stock companies, Mr. Hurrell; I didn't think about the other class of companies.

Q. You were not talking about any of the county and town co-operatives, or mutuals? A. No, I just meant the companies which have heretofore reported to the Insurance Department; the stock companies. There are upwards of 170 of those.

Q. Now, are there any subsidiary organizations which the State association controls? A. Yes.

Q. What are they? A. City and county boards; local boards; boards of local agents.

Q. And those boards are composed as the name indicates, by local agents of various companies having offices in a small territory? A. City or county.

Q. Now, in what way does the State association control, or how is it brought in touch with those smaller bodies? A. The membership of the association is divided into what are known as district committees, usually composed of five members, who have direct supervision over the local boards in their counties.

Q. That is, the committees of the association have the supervision of the boards in their respective counties? A. Yes.

Q. Is the State divided into districts so that a committee of the State association may be made up of men having jurisdiction over two or three local boards in one section of the State? A. Let me see. I don't exactly understand what you mean. Let me explain that the district committees are all county committees; there are fifty-two district committees. Now, within those counties there may be one or more local boards. For instance, in, say, a city like Syracuse, that would have a board of its own, and the county would have a board.

Chairman MERRITT: Having jurisdiction entirely outside of the city?

The WITNESS: Yes.

Chairman MERRITT: Has Ogdensburg got one, or that county?

The WITNESS: St. Lawrence county has.

Chairman MERRITT: Is there any record of the members of the governing board in those rural counties?

The WITNESS: Yes, we have it at the Syracuse office.

Q. Now, just what are the duties of these district committees of the State association in their supervision of local boards? A. The general supervision of the conduct of the local boards, and the participation in the making of the rates. That is to say—let me see how I can make that clearer. In order to answer that fully I would have to take up the method by which we make and publish our rates.

Q. Then I will come to that in a different way? A. Yes.

Q. The district committee of the association, in overseeing these local boards, among other things, supervises the way the local board observes the State rates? A. Yes, sir.

Q. Now, in what way do the companies come in contact with the State association? You say that the association is made up of special agents; is that substantially the same as if the companies themselves belonged to it? A. Why, it amounts to that. The companies are represented by their special agents.

Q. Now, why is the State association made up of special agents, whereas other boards that transact the business of the companies collectively are either made up from representation of the home offices, or of the companies themselves? A. I should say it was simply a matter of business convenience, Mr. Hurrell. In New York city it would not be convenient to have them represented in that way, either. The way seems to be more workable.

Q. That is why the membership is composed largely of traveling companies up the State? A. Yes, sir.

Q. Now, what are the chief functions of the association? I think you have answered that once, but I want to develop the matter again? A. Well, let me see. As outlined in our constitution, to maintain good practices in underwriting throughout its territory, which means ——

Q. Which means, maintain proper rates? A. And forms of policies, forms of permits for various hazards, generally uniform good business practices. For instance ——

Q. What is it? A. For instance, in the regulation of heating and lighting devices, permits for the use of gasoline, fireworks, explosives, storage of automobiles and all that sort of thing. We have standard forms of permit which are used in writing policies governing property where these hazards are introduced, which are calculated to minimize the hazard, and require proper installation and care.

Q. And in doing that work I suppose you follow along the lines laid down by the National Board of Fire Underwriters, do you? A. To a very considerable extent.

Chairman MERRITT: Under whose authority is the electrical inspection made up there in the rural parts of the State; under your board or by some local board?

The WITNESS: By the association.

Chairman MERRITT: Fitzgerald is one of your representatives?

The WITNESS: Yes, he is one of our employes. We have an electrical department for conducting electrical inspections.

Q. In devising the various methods of support, you are working in conjunction with the National Board of Fire Underwriters. Take, for instance, such a thing as putting out instructions regarding the storage of gasoline and placing of electrical wiring, etc.; I mean, that is the general lines along which you are working also, is it not? A. Yes.

Q. My purpose is to save going over that again, because it is put in the record from the National Board? A. Exactly.

Q. And one of your functions is the making of rates? A. Yes, sir.

Q. Now, will you please state how the State association makes the rate for these 52 counties over which they have jurisdiction? A. A large portion of the properties are rated under the schedules of the association. All mercantile properties in protected towns, a large number of classes of special hazards have separate schedules for rating. These are contained in this book. Would you like a copy of it? (Witness hands book to counsel.)

Q. Yes, sir. Does this book contain the various schedules for the whole State? A. That book contains all of the schedules for use in our territory, except a small schedule for rating retail lumber yards, which have not been published in that book.

Q. Are these schedules divided into classes of property? A. Largely, yes, sir.

Q. Now, who devises these forms of schedules? A. These schedules are the result of a modification which took place, well, it started in 1901, when conference committees representing the associations known as the New England Fire Insurance Exchange, the Underwriters' Association of New York State, and the Middle Department Association, covering Pennsylvania, Delaware, Maryland, District of Columbia, New Jersey, did I say? These various committees came together for the purpose of formulating a uniform schedule for use, uniform schedules for use in the territory here in the East, and after a long series of conferences and consultation, and the comparing of views and experiences, certain schedules were formulated by this conference committee, and tried out experimentally throughout this territory, covered by these three associations.

Q. How long did the experiment take? A. Oh, it was a year

and a half after we started this work before we reached a point of finally recommending to the three separate associations the adoption of this list of schedules; something like that, I don't remember exactly.

Q. Well, has this any similarity to the mercantile schedule, that Mr. Robb spoke of yesterday? A. Very little.

Q. Could you name this by any one of the many names that are used in denoting schedules, such as the Moore, the Dean, or any of the others? A. This is generally known as the work of the conference, and is generally called the Conference Schedules.

Q. Can you tell us in any more detail, or with more particularity, how the various rates and charges, that is the base rate, and the charges in the schedule were determined? A. For instance, I see here a schedule for rating boot and shoe factories, base rate $1.65, then follows the charge for deficiencies, split up into items. The schedule has a structure standard, as you will notice in the first pages of the book, has a general standard of construction, arrangement and protection. Then you will notice in this boot and shoe subdivision further requirements which relate specifically to that class.

Q. Yes. Now, those could be called? A. That is the standard.

Q. Those might be called the building laws for those? A. It is the standard for that schedule, as we dominate it. A risk constructed in accordance with that standard, in our opinion, are started at $1.65. That would represent —— I will explain that later. We take the base rate of $1.65 for a shoe factory, as representing what we consider an adequate rate for a risk which is standard.

Q. And if the risk were standard, that would be the rate? A. That would be the rate, although subject to further deductions, or further charges, for one reason or another. But that would be the starting rate. Now, if there were deficiencies in this risk in question, that would be charged according to the deficiency charges which follow.

Q. And if there was any superior construction, that would be credited? A. That would be credited. There is an item in the schedule for credits for additions, superior to standard.

Q. Now, what was approximately the date, as to the year when

this schedule was finally adopted by the association? A. If you will look at the top there, I think you will see it.

Q. It says amended June 10, 1902? A. Well, it has been in use a very short time previous to that, but you may say practically 1902, this set of schedules went into use in our territory.

Q. Now, about how many companies from the three associations were in the conference, about how many companies were there in all represented in that conference? A. Well, it is impossible to say exactly, but the membership of the New England Exchange is somewhat larger than ours; probably every company represented in our association is also represented in the New England Exchange. As I recall it, there are more than one hundred companies in the New England Exchange, and nearly that number in the Middle Department. I think our association happens to include the smallest number of individual companies of the three.

Q. So there were approximately at least a hundred companies represented in the conference? A. Yes, at least 100.

Q. Did you take part in that conference? A. Yes, sir.

Q. Now, in arriving at these rates —— A. But at that time I was not secretary of the association. I was a representative of a company in the field.

Q. But you took part in this conference which finally brought out these rates, or this schedule? A. Yes.

Q. Did the companies do anything else in that conference, in arriving at the base rate, than to confer over the total, or was there any comparison of experience? A. There was information from companies along general lines.

Q. Well, for instance, taking up one subject that is spoken of, boot and shoe factories, do you recollect when that schedule was being constructed whether any companies had their experience on boot and shoe factories there in concrete form? A. With relation to that particular schedule let me say, that our conference was divided into sub-committees and I didn't happen to be a member of that sub-committee. The New England Exchange rather took the lead in the formulation of that schedule, because that business is rather prominent in New England, and they had more experience in that class than any other.

Q. What sub-committee were you on, for instance? A. I was on several; I was chairman of the theatre committee, I remember.

Q. Is that indexed? A. Yes, in the front, it is alphabetical.

Q. Now then the theatres; did the sub-committee or the conference after that, when they were striking a base rate for theatres, have any experience of these 100 companies there, by which you might take advantage on the striking of that base rate? A. Yes.

Q. In what form? A. As chairman of sub-committee on theatres I addressed twenty-five or thirty of the principal agency companies doing business in this country. I told them that I had been chairman of the sub-committee for the purpose of formulating a schedule and asked them to give me their results of experience of that class for a series of years, it being the province of our committee to ascertain whether the scale of rates in force at that time was too high or too low.

Q. Do you remember in the replies which came to you in answer to that inquiry what form they took; did they give figures or just say they thought the rate was already fair that was in force? A. Both. I mean both were adopted; some of them gave us, at our request, the premiums and losses for a series of years.

Q. And it was largely upon the reports of the premiums and losses that the rate was finally determined? A. Naturally that influenced our action to a very large extent.

Q. Of course that is what you wanted to get, the experience of the companies in that line? A. Certainly.

Q. Can you say whether —— A. If you will let me say right here that is a class which is particularly susceptible of arriving at results in that way; it is a distinct class.

Q. Can you say whether that method was quite generally adopted by the other sub-committees? A. I cannot say in just what detail. I was a lay member of some of the other committees. I do not know that we sought the views of underwriters and company officials quite generally in the formulation of those schedules.

Q. It would be a fair statement to say that the purpose of the conference was to get the experience of all the companies in the conference, and to strike a rate that would take care of the losses and expenses and return a fair profit to the companies on the different lines of risks? A. To get the experience and judgment

of the companies we were representing as to the formulation of these schedules to produce proper resultc.

Q. Now, what would you say entered into the judgment of a fire insurance underwriter as touching the question of rates? A. Their experience in conducting their business.

Q. And as to whether a rate was adequate or inadequate it is a fair deduction, is it not, that the man who has had the most experience, observing the rates of premium brought in by different classes, the aggregate of these premiums and the aggregates of losses, that that is what enters into his experience as an underwriter; is that true? A. With due regard to the modifications and the peculiarities and the varying conditions of our business, yes.

Q. In other words, taking a class of theatres; if a man was an experienced underwriter as to theatres, he would be experienced, wouldn't he, by reason of the fact that he knew what premiums theatres were producing. He knew what losses were being credited in theatres by fires, and having those two items in his mind he would also have a knowledge of how theatres were being protected by modern appliances, and what the probable results were going to be in the future of that class by reason of those new appliances. Those three items would enter into his judgment largely as an experienced underwriter as to theatres, wouldn't they? A. Certainly.

By Chairman MERRITT:

Q. Did they make a great many changes in the schedules as they existed at the time of the conference? A. We had no schedules at that time.

Q. They were not at all uniform? A. No, sir.

By Judge BRUCE:

Q. In fixing a base rate upon any given class, does it involve in the inner consciousness of those men those experiences, or is it the exercise of a sixth sense, or is it merely judgment based upon experience? A. It is judgment based upon experience.

Q. And the larger that experience, covering a longer time, a wider field, and being applied to a greater number of risks, other

things being equal, the more accurate the judgment? A. Certainly.

Q. And then, if a man had before him facts and data showing the experience of all companies in that class, it certainly would be a great aid and assistance to him in arriving at an accurate judgment in fixing basic rates? A. It would be a decided aid to him.

By Judge BRUCE:

Q. The result was uniformity of action, generally; that is, the schedules were accepted for the territory as the result of the conference, were they not? A. Yes, sir.

Q. And I suppose that one result of that would be that the experience thereafter of all the companies would be more easily classified, would it? A. No, I cannot say.

Q. Wouldn't you go as far as that? A. No, I cannot say the schedules were adopted for the purpose of getting a better classification.

Q. I don't mean that; I say as a result of your adoption, and the uniformity of action, the classification, or the results, you may call it that or not, would be something that would have more of a uniform effect and would be more generally understood from the same standpoint? A. Uniformity was desired for this reason, that we wished to avoid discrimination between individual risks. We wished to publish our rates in such way that they would bear fair comparison with each other for individual risks of like character of construction, and all that sort of thing, and to properly measure the difference between unlike risks, so that we might say to Mr. Smith, who owned this theatre, that there was a reason why his rate was twenty-five per cent. higher than the other man's, and we could show him in details why his rate was so much higher. The system of schedule rating has become very popular in this section of the country, as you know, because it enables us to more clearly show these property owners how and why their rates are made.

Q. You were treating your customers as a body more equitably and fairly than you were able to do under the other system, were you not? A. Yes, sir.

By Mr. Hurrell:

Q. Have these rates been amended very much since 1902? A. Very little.

Q. Has there been a systematized attempt to determine whether these rates that were adopted in 1902, in the last eight years or not, have been producing a fair result to the companies, and giving fair treatment to the public? A. No systematized effort has been made in that direction.

Q. What does the State association do when a complaint reaches it from any individual or class of individuals, that the rate, for instance, is too high? A. We give it very careful consideration. We confer with these parties, either in their own locality — we either go to them or ask them to come to us and talk it over.

Q. What, in general, is the main thing to be talked over when a body of citizens come with their complaints; I mean, what is in my mind is this, have you anything to show to citizens beyond the statement that the judgment of the underwriters is such that the rate is all right; that is their belief, because they are experienced men; have you anything to say to the citizens regarding the premiums taken in by the companies upon the class of property about which the complaint is made and the losses had? A. Do you mean, have we statistics which we can show them?

Q. Have you anything concrete that you can show them beyond stating that your judgment differs from theirs? A. No, sir.

Q. Well, how do you determine when a complaint reaches you, whether your judgment is right or not? A. As to an individual risk?

Q. How do you determine with yourself that your rates on a given class of property are right? A. As to an individual risk or a class?

Q. Well, take an individual risk; you cannot think of an individual risk, can you, without reference to its class? A. No, that is the point I was going to make. If complaint should be made about an individual risk we would show by comparison that it bore a fair comparison with other individual risks in the class.

Q. That would be the first thing, and that would be to show the individual was not discriminated against? A. Yes, sir.

Q. Then could you go any further with that as to the class itself, so as to show whether that class was being discriminated against? A. We would have no statistics to show the property owner or committee that our contention was correct.

Q. Would you regard it as a helpful thing, Mr. Jenness, if there was kept either by the State or by racing associations a careful classification of the loss experience with reference to the losses paid and the premiums collected in different classes, and I mean by that helpful, I do not mean is that conclusive evidence, but if that experience was kept and classified, would it not be helpful to rate makers in coming to their conclusions? A. It certainly would. I am glad you put the question in just the way you did, because I consider it would be helpful, and the only fear I would have of a plan of that sort would be that it might be construed as too conclusive, because it never could be.

Q. In other words, you would say you think that is simply helpful to a man to use who has got to use a lot of judgment with it? A. I think Mr. Robb quite fully explained yesterday the difficulties about classification; there are so many varying conditions that it almost runs away with you, and if compulsory classifications should obtain there would be great danger that there would be an attempt on the part of interested parties to make it appear like a mathematical deduction, and it never can and never will be. Rates cannot be predicated upon any such system as that.

Q. That is, you would say that the base rate could not be predicated upon any such results, having in mind, of course, that you could then apply a schedule which would take care of varying conditions and differences? A. Mr. Hurrell, the base rate under our system of schedules represents a standard risk. To be sure, it is an artificial standard, but it is a constructive standard. The base rate represents what we believe to be a fair figure for a risk so constructed, located, arranged and protected. Now, the average rate of a class is not the average rate of a lot of standard risks, but of a lot of risks, good, bad and indifferent; so that if you had the most scientific classification which you could devise on a class, and you would say that the average rate was $1.50 for instance, that would represent the average of all the risks in that class; it would not represent a standard risk at all.

Q. That is true. A. So you are up against the difficulty then of determining what the difference is between the average rate and a standard risk.

By Judge Bruce:

Q. It would be possible to make the standard risk based upon experience extending over say 20 years? A. No, sir, not in schedule language.

Q. And then from that build up what you call your additions of credits? A. No, I think not. If you took the classification experience of a large number of risks, it is the average of all the risks, isn't it?

Q. Certainly. A. It is the average of a large number of risks which are good, bad and indifferent.

Q. Yes. A. And does not represent the standard at all. It just represents the average of all, so that at whatever point you attack this problem from you never get a mathematical demonstration.

Q. How do you fix this artificial standard; who conceives of the standard risk; upon what is that conception based? A. Judgment; business judgment and experience.

Q. Take any standard risk for a theatre, who is it who has in mind now the standard theatre, and is that purely artificial or has he in mind some particular class of theatre, and is that judgment based upon what the experience of the companies has been in writing risks upon that standard which he has in mind, or is the whole thing purely artificial? A. It is neither one nor the other; it is not purely artificial, and it is not mathematically exact.

Q. Well, his judgment is not based upon experience of companies with reference to that standard construction that he has in mind, is it? A. Certainly not, because his judgment is based upon the experience of companies on the average of all the risks in the class.

Q. Of theatres? A. Certainly.

Q. Then this artificial standard that you fix is really in fact but an evolution from the experience of companies in writing risks on theatres, good, bad and indifferent? A. Largely.

Q. Then, why wouldn't you have a standard which was more nearly correct if this standard was built upon experience of all companies in writing such risks? A. It is.

Q. I know, but it is experience; for instance, you have no pooling of data of all companies with reference to theatre risks? A. Not in dollars and cents. We have a consensus of opinion, experience and judgment, however, of all the leading underwriters in the country before we ever decided upon any such course of action.

Q. Here is a man that has been connected all his life with one company; he is in the conference; he says, while I think from my experience, extending over twenty years, and writing theatrical risks, that the standard rate ought to be about so much, another man says, well, I think it ought to be about so much.

Q. And you finally arrive at a —— A. A consensus of opinion.

Q. Of opinion? A. Yes, sir.

Q. Now, would it be more accurate if the experience in this country that has been had of twenty years on theatres were absolutely before you, say each company during twenty years have written risks on so many hundred theatres, we have experienced so many losses, based upon that the rate ought to be so and so; isn't that better than his judgment? A. It is the same thing.

Q. In getting at a basic rate, I mean? A. It is the same thing, I think.

Q. Do you think a man's recollection or his impressions or judgment based upon his experience would be more accurate than if you had before you the absolute number of risks written and losses sustained in that class by all companies that were connected with your organization in fixing a basic rate? A. I think when an underwriter expresses his opinion in the way you have described he does not do it as a matter of memory, but as a matter of absolute knowledge of the experience of his company.

Q. Then there would not be much difference whether he verbally expressed that at a conference where the basic rate was made up or whether he had the actual data taken from the records of the company before the committee, is that true? A. Yes.

By Mr. Hurrell:

Q. On that subject, and appreciating how the underwriters feel about classification as a guide to future rates, wouldn't you say that a careful classification of losses and premiums received upon that class of risks over a period of say ten years, would be useful to the companies, if you please, not in basing future rates, but in answering the question, have the companies been doing justice by the public during the preceding years which were represented in the record of the classification; wouldn't that be useful there? A. I should not consider it of great importance from that standpoint.

Q. Of course, all the company gets from the public it gets from premiums? A. Yes, sir.

Q. What it expends it expends in losses and expenses? A. Yes, sir.

Q. Now, if you had a class that we will conceive of, a class of theatres that you concede are susceptible of being classified, and there is a similarity between all theatres —— A. Let me interject a moment. I am talking about protective theatres all the time, which are not private protection and not country risks.

Q. Just take a class, it is simple enough to divide it up that way. A. I was only helping you out on that.

Q. Take a class of protected theatres? A. Yes, sir.

Q. After an experience of ten years there was complaint, we will say, to the Legislature, from theatre owners that because the companies were in close combination they were paying too much fire insurance; the classification would be useful to you, then, if your rates were fair, to demonstrate to a legislative committee that the theatres had paid a fair rate because all they had paid into the companies had been consumed, or almost all of it, in losses and expenses. If you had that you would be able to demonstrate to a man's mind that your point was well taken, or that it was poorly taken, wouldn't you? A. Well, that is a matter of opinion. If you bring it down to the concrete proposition of protected theatres you might be right; but if you attempt to extend that over the general field of insurance experience, I should be a little doubtful about the value of it.

Q. The situation seems to be, as far as I get, and I am stating

my opinion, it brought forth an answer from you, the situation seems to be that a classification is concededly helpful? A. Yes, sir.

Q. That it may be useful, but that no person is using it in the making of rates, because it is not ideal, and the public are complaining because they think conditions are not anywheres near ideal in the fire insurance field, and I ask you if you have a method of classification taken from typical classes, where you had them getting your results upon that particular class, where the risks vary on like four floors with a combination of things concededly, so it was impossible to classify them, wouldn't you be in a position to answer the public more completely and more satisfactorily than you are answering to-day? A. Possibly, but I think that has limitations.

By Chairman Merritt:

Q. Where you had a great difference between the results of the classification and the judgment of the underwriter it might be difficult to make the public appreciate the value, or that part of the value which was purely a matter of judgment, but if they happen to run parallel it would certainly be very handy? A. That is all right.

Q. To what extent, if any, do you give consideration in making a rate to what the property may fairly be expected to bear as they say in the shipping of goods and traffic, would bear to the rates of transportation as they are classified? A. What the business would bear?

Q. Regarding the insurance as one of the essential parts of the cost of the ownership and management of the property just as essential, it is just as necessary to charge in fact in most cases the cost of insurance as the cost of taxes? A. Well, to be perfectly frank with you, I don't know of any case where that idea is applied, with one exception, you take a long frame row in country towns unprotected, and in that sort you do not get above a certain figure, because the trade won't carry it; yet if one frame store unprotected is worth 2 per cent to insure, and you multiply that by forty, it is almost inconceivable what the rate ought to be. But we do stop on some figure or other, because that is about all

the trade will bear, because the companies are very conservative in accepting lines in those long frame rows. I think that is about the only place I recall where we make rates with any such consideration in view.

By Mr. Hurrell:

Q. I do not remember that you explained, Mr. Jenness, how complaints of bodies of citizens or individuals are treated by the association? A. We have very few of them; there are almost none. We get an occasional complaint through local agents from individuals as to their individual rate, and we take all the pains we can to explain it through the agent to the assured or to the assured direct.

Q. Just for the benefit of the record, will you indicate what a class of citizens or a citizen should do if he feels that his rate is too high? A. Very glad to have him write our office at any time.

Q. That is, take the matter up direct with the State association? A. Yes, sir.

Q. And then you would refer it to the district committee of your association and have them take it up with the local board? A. It is a matter of administration. I would take it up with him first and thresh it out with him first before bringing it to anybody. Perhaps I could convince him it was all right, and if I did not we would take it up with the committee.

Q. Have you a copy of your articles of association with you? A. Yes, sir.

Q. How are these rates promulgated? A. Promulgated by the secretary.

Q. And I presume a copy of this rating and these schedules are sent to every local agent in the field? A. They were originally, yes, sir.

Q. And that is what they have and operate on now? A. A local agent don't apply those schedules; we apply them ourselves.

Q. Suppose a piece of property in Batavia, for instance; the owner of it applies to a local agent asking what his rate would be; does not the local agent apply this schedule and figure out the rate; what does he do? A. He makes an application to the

association for inspection and rating of the property. We send an inspector to make a careful detailed survey of the property, which he reports to our office in Syracuse, giving a minute description of the size, height, area, construction of the building, walls, roof, floors, stairways, elevators, location and arrangement of boilers; the fact of whether they have a watchman and whether he uses a watch clock, the presence of waste hands, internal protection, condition of the property, exposures, or any other feature pertinent to what we consider the hazard of the risk.

Q. What determines whether that inspection shall be made; of course you don't do that with all property, do you? A. We specify all classes of property except certain risks which are written under minimums; which are dwellings, school houses, churches and public buildings, although many of them are specifically rated.

Q. What do you mean, Mr. Jenness, by the use of "dwellings;" use of the phrase "dwellings written on a minimum?" A. We probably say tariff for every locality, you know, in a book containing the specific rates as applying to the individual risks in that locality, and in the front part of the book is a table of minimum rates which applied to a book not specifically rated, and unless a dwelling is specifically rated, it takes a minimum, and a dwelling is not specifically unless there is some reason for it, such as an unsafe chimney, an exposure by a mercantile or special hazard property, or some other feature of hazard which makes it worth more to insure than the minimum. Those which we do not rate specifically come in under the minimum provision.

Q. Is the minimum rate for dwellings, for instance, the same throughout the towns of the State of New York and the towns and cities that have the same kind of fire protection? A. Practically, where the protection is the same.

Q. Do you recall what the rate on dwellings in the city of Buffalo is? A. That it not in our territory.

Q. Do you recall what the rate on dwellings in the city of Rochester is? A. Well, I am not positive now. I think it is forty cents ——

Q. (Interrupting.) If you are not positive, do not give it, but I will ask you when you come next week if you will bring the

rates on the city of Rochester — I will let you have it out of the record — city of Rochester, Syracuse, Utica, Albany, Poughkeepsie, Elmira and Binghamton, on which you call the minimum rated classes? A. Yes, sir.

Mr. Hurrell: I want to offer in evidence, Mr. Chairman, the articles of association and by-laws of the Underwriters' Association of New York State.

(The paper so offered and identified was marked Exhibit L in evidence.)

By Chairman Merritt:

Q. Are these schedules anywhere on record accessible to the public at all so that they may generally know what the schedule rates are, or does that only come up in connection with specific risks? A. Why, of course, we have not distributed these schedules to the public. We have distributed them to 2,000 agents, but we would not object to giving anybody a copy of the schedule if there is any particular reason for it. For instance, there is no secret about them.

Q. For instance, what I have in mind is the public — I think I speak as one of them — think that there was a good deal of mystery about the subject which, as this investigation goes on, appears to me to be rather unnecessary from any point of view, and it may be one of the sources of prejudice which is always a disagreeable thing in business? A. Well, let me say, Mr. Chairman, that we take pains in the publication of every schedule rating to publish all of the items which make up the rate. In the publication of our tariff we put down the name of the assured, the description of the property and the tariff number for our convenience of reference, and then the rate on the building and contents flat, followed by the rates on the building and contents with co-insurance clause, giving them the option between the flat rate — that is, what we mean by flat rate is a rate without co-insurance requirements — then a rate with the 80 per cent co-insurance clause, and we publish the details of the application of the schedule which produced those figures; basis so much, wall so much, area so much, height so much; this, that and the other, and every agent in our territory has those details in his posses-

sion and he advises really with his customers as to the makeup of that rate, and he is very likely to, and is encouraged to, show the property owner how the rate is made, and that the rate which he is paying includes certain charges for defects which it would be for his interest to remove, and which we are very glad to recognize by reduction in the rate for improvements when those defects are removed.

Q. I wanted to ask you, on that point, is it the desire of the companies that the insured take advantage of the reductions on specific defects which are shown in the schedules, or not? A. The companies would prefer that the risks be improved. The companies would prefer to insure the property at the lower rate, provided the property owners would remove the defects which it is charged for.

Q. Well, now, I have had some experience with those things myself, and it occurs to me that, as a matter of practice, no agent ever called my attention to what could be saved in rates until after I had made protests about the rate, when the thing was opened up as an entirely new consideration. In other words, in the beginning, at the time of the application for insurance, nothing was ever said, I do not think — I have no recollection of it — and I wondered whether it was a general policy, that I was permitted to go on and insure property at a higher rate without being shown what could be saved by the investment of some money in correcting, or at any rate changing, conditions in accordance with the policy of the company, and I had wondered, in thinking of it, whether the company regarded it as more profitable to them to carry the hazards part of it, or to have the insured remove as much of the hazard as he could under their schedules? That is why I ask the question? A. The companies would very much prefer to have the risks improved, and I would like to point out that underwriting organizations and such organizations as the National Fire Protection Organization, which is encouraged and fostered by the underwriting interests, are all working, bringing all the influences to bear they can to induce property owners to improve their property in every way it is possible. We are encouraging better construction to a more effective extent than any other interest in this country to-day.

Q. I have a feeling about it that if it were the uniform practice, either through some general method of publicity, or by directly directing the attention of those who are insured, or about to become insured, to these specific savings in the rate, a great many people would take advantage of them that don't. Possibly the agent measures his obligation to some extent by the percentage which he gets, and doesn't say very much about it if he thinks it is pretty good property to insure, and lets it go at that. I do not know. A. Well, Mr. Chairman, I think it may be fair to say this; of course the practice of agents differs somewhat, but the competition between agents pretty generally takes care of that, because an agent who has no insurance on your property is very apt to come to you and tell you, if you have not heard of it from any other source, that if you will do such and such a thing it will make a difference of fifteen cents in your rate.

Q. That is true; that happens, but the power of inertia is one of the most constant things in this world, and it is pretty hard to get a man's attention after he has got his premium paid, until the time — and he gets some attention when your policy is about to expire. There is no question about that? A. That would be merely a question of whether there was any practical plan by which you can get that information into the hands of property owners?

Q. It would be a good thing to do. A. I am perfectly confident in saying that the companies will prefer to have the improved risk every time.

By Mr. Hurrell:

Q. Have you a list, Mr. Jenness, of the companies that are represented in your association? A. Yes, sir. Here is a corrected list of the members and the companies they represent.

Q. Do you know, Mr. Jenness, whether there is quite a uniformity of rates on different classes of property throughout the cities and towns outside of New York city in the State? A. Yes.

Q. That is the policy of the association, is it? A. Certainly is.

Q. And do you know whether that policy is coincided with in the Suburban Exchange, too? A. I do not know anything about that.

Q. What method is adopted by the association, adopted without reference to the particular clause of the by-laws, to compel the various local agents to observe the association's rates? How do you enforce your rates? A. Their membership in the local board is based of their observance of the rates and rules of the association.

Q. That is, you use the local boards as machinery to see that the rates adopted by your association are enforced? A. Yes; to a certain extent; not entirely.

Q. Now, are your members, members also of the local boards in their own localities? Can you require, for instance, the local boards of Genesee county to adopt rules that only membership will be permitted to those agents who observe the association's rates? A. Certainly. The organization would not be very effective if you did not.

Q. That is, your companies would not permit local agents to represent them, who were not in the board observing association rates, is that it? A. Certainly.

Q. And that is the way you, as a practical matter, enforce the association rates upon the people of the State? A. So far as our companies are concerned, and the agents who represent those companies.

By Judge BRUCE:

Q. What proportion of the insurance carried within the field within which your companies operate are carried by members of your association? A. Well, it is very difficult to say. As you see, the figures which are obtainable from the insurance reports, cover the whole State, and if you take out New York city and the suburban territory and Buffalo, the preminum income in our territory is a matter of estimate, so that any reply to your question would be an estimate. In my opinion it would run from 66⅔ to 75 per cent.

Q. Now, are all the — what you might call big companies — that is the large companies, members of your association? A. Most of them.

Q. Are there any of the very large companies that are not members? A. None of the very largest ones; no. I think, per-

haps, when you get down to the fifteenth or twentieth one, there might perhaps be some.

By Mr. Hurrell:

Q. Do you know whether the base rate upon various properties in cities up State is figured in substantially the same way that the base rate is figured in the territory of the Fire Insurance Exchange in New York city? A. I do not think it is.

Q. Do you know whether the —— A. (Interrupting.) Let me explain.

Q. What is it? A. Let me explain: The two mercantile schedules are so different in their structure that the base rates would necessarily be calculated upon a different basis.

Q. That is, the conference schedule is something entirely different than the mercantile? A. Yes.

Q. Do you know whether the rates maintained by the companies in your association in this State are substantially the same on like properties as they are, for instance, in the States of Pennsylvania and Ohio? A. I cannot say that very definitely. I think the rates which we maintain are quite similar to those which are published in Pennsylvania. I think the Pennsylvania rates average a little higher than ours. That is my impression. I cannot give you very definite information about that. In Ohio the system is entirely different. I do not know anything about the results out there at all. They use the Dean schedule.

Q. Do you know whether the companies which do not belong to your association get the benefit of the rates that are established for your association? A. Yes.

Q. Do they charge the same? A. In some cases. In others they write business for less.

Q. Do you often find, as a matter of fact, that there is much competition in rates in your territory between your companies and outsiders? A. Why, there is some. I cannot tell the extent of it.

Q. Aren't some of the non-board companies represented in the same offices with the board companies? A. Yes.

Q. Now, what is the difference between the two companies in the same office? For instance, in their methods of doing business? A. Not any.

By Judge BRUCE:

Q. Can an agent representing companies which are in your association also represent companies which are not? Any restriction whatsoever on that? A. Why, the simple requirement that he shall obtain the same rates for all companies he represents.

Q. That is, if the rates for competing companies that are not members of your association are different, he must charge association rates? A. Certainly.

By Chairman MERRITT:

Q. And get the same commission? A. No. We do not legislate as to commissions at all.

Q. Oh, you do not? A. No.

By Mr. HURRELL:

Q. As a matter of fact, how much commission ordinarily do the up-State agents get from the companies in your association? A. It varies greatly.

Q. And you have nothing to do with that? A. No.

Q. Now, what organization of companies deals with the question of commissions in the territory over which you deal with the question of rates? A. The Eastern Union.

Q. Do you know, as a matter of fact, whether the companies outside of your association pay different commissions to the agents than the companies do that are in your association? A. There is no line as between association and non-association companies on the question of commissions. I do not understand exactly what you are trying to get at.

Q. I was simply asking as to your general knowledge, as to whether agents that were observing these rates — whether they were paid large commissions by one company and small by another — what the effect of it was in writing the business? A. Why, about one-half of the companies in our association are Eastern Union companies, and the other half are not. Those that are not pay any commission they please. As far as we are concerned we exercise no control over it.

Q. And do you know the rates of commission paid by Eastern Union companies? A. Yes.

Q. What are the rates? A. Fifteen per cent.

Q. Straight 15 per cent? A. Yes.

Q. And is there any schedule adopted by the non-union companies? Schedules of commissions? A. I do not think they have any agreement among themselves.

Q. Do you yourself have any connection with the Eastern Union? A. None.

Q. You spoke a little while ago about the schedule of rates which you put forth — you called them your tariff rates; I do not know whether it is something —— A. (Interrupting.) Tariff we call it.

Q. As showing the rate without the co-insurance clause, and as showing the rate with the co-insurance clause. Now, do you permit your agents to write any co-insurance clause at all? That is, 10 or 20 or 30 or 40 or 50 or 60 per cent, or is it uniform 80 per cent? A. Uniform 80 per cent or 100 per cent.

Q. Eighty or 100 per cent? Do you have three rates, then? A. No. We publish what we call a flat rate. Now, this does not apply to all classes. I will explain that, but in general we publish a flat rate on a risk, which means the rate without co-insurance, building and contents. We then publish an 80 per cent rate, building and contents. Our tariffs are in four columns; flat rate on the buildings and contents; 80 per cent co-insurance rate on building and contents. Now, for certain business considerations some people want a blanket policy covering scattered properties, building and contents together; separate buildings of a plant, and all that sort of thing. We provide by our rules that such risk may be written with a 100 per cent co-insurance clause on a blanket form of policy, at the average of the 80 per cent rate, which we calculate and publish on a statement of value from the assured.

Q. On the average of the 80 per cent rate, did you say? A. It is upon a statement of values which we obtain from the assured.

Q. Well, what does that result in, as to the difference in the rate between a policy which carries an 80 per cent co-insurance clause and one which carries a 100 per cent co-insurance clause? A. Not any.

Q. It is not any, but the reason is because it is a blanket form and covers several scattered pieces of property? A. Yes. It is a matter of option with the assured whether they desire a specific form of policy with the 80 per cent co-insurance clause, or a blanket form covering all this property under one item.

Q. Did you take in the four columns, then? A. No; the two columns.

Q. Well, I mean, you spoke of first the flat straight rates, and then the rate with the building and contents with the 80 per cent clause on, and then a blanket form of policy with the 100 per cent co-insurance clause. Now, what is in the fourth column? A. The four columns in the tariff are the building and contents rate flat; that is the first two columns.

Q. That is two columns? A. That is two columns.

Q. Now, what difference, Mr. Jenness, is there in the rate ordinarily in your territory, flat rate, and the rate carrying the 80 per cent co-insurance clause? A. Under standard protection the deduction from the flat rate for 80 per cent co-insurance is 30 per cent. If the protection is sub-standard, we reduce the percentage.

Q. And that, of course, varies, doesn't it? A. Of course, varies with the degree of protection, and on unprotected property there is no co-insurance at all.

Q. On unprotected property? A. No co-insurance requirement and no co-insurance rate published.

Q. Well, what is the reason for that? A. Co-insurance is only desirable or necessary where risks are subject to partial loss conditions.

Q. Then you think —— A. (Interrupting.) And unprotected properties are those which will burn up when they take fire.

Q. Unprotected properties produce total loss? A. Total loss conditions, and therefore we do not care for co-insurance on it, and even country property, such as country stores and saw-mills, and that sort of thing, we do not even care to encourage the insured to carry 80 per cent. Let him carry less. All the better. It is a business proposition. It is all right where it works out properly.

By Chairman MERRITT:

Q. What do you mean specifically when you say "unprotected risks?" A. I mean without public fire department protection.

By Senator FOLEY:

Q. Isn't it quite possible on such risks as country property, and so forth, that there could be established a rate that would take care of that. That would be business like, in this way —— A. (Interrupting.) I do not think that it would be worth while to try. There are so few partial losses on unprotected properties that it would be extremely difficult to measure the value of the co-insurance clause on property which had no public protection. I hardly think it will be worth while as a business consideration.

By Chairman MERRITT:

Q. You would not be able to get at it? A. No. Why, Mr. Chairman, there is an occasional exception to that. You take a manufacturing plant constructed of reinforced concrete, with the non-hazardous occupation, such as a metal worker, you can imagine, even without any public protection at all, that we would, in a very exceptional case like that, publish a co-insurance deduction and give the assured the option of a flat rate or co-insurance rate, on such a risk which had no protection, but it would be very exceptional.

By Mr. HURRELL:

Q. You were present, were you not, when Mr. Whitney was explaining the reason of the co-insurance clause generally? A. Yes, sir.

Q. Do you agree with the conclusions and theories stated by Mr. Whitney generally? A. Let me see. Do I agree with the results that he showed in his tabulation, do you mean?

Q. Well, take that if you have it separated. That is one phase of it? A. Take that first. I should like to say that tabulation was made on a certain number of frame buildings in a given locality, and that those results would be very likely to be changed by different conditions of location, construction, protection, and

all that sort of thing, that they should not be taken as a basis for any very definite conclusion.

Q. Well, do you agree that in towns protected by — that is, ordinary protection, water, and so forth, fire department — that the man that insures his property for only 10 per cent of its value should pay a higher rate than the man who insures for 80 per cent of it? A. Certainly.

Q. Well, that is the general theory as I understood Mr. Whitney was demonstrating, that a man who pays —— A. (Interrupting.) I agree with his general theory, yes, up to that point, but I should not like to say that that formed the proper basis to measure the difference between the different percentages of co-insurance allowance.

By Judge Bruce:

Q. Well, why is it fixed at 80 per cent in all policies? A. Largely, I think, as a matter of convenience in business. I think the experience will show that the average prudent business man desires to carry as much as 80 per cent of insurance to value for his own protection.

Q. Well, wouldn't it be more equitable and just if it were fixed at such a percentage as the assured wished to carry, and his rate made accordingly; that is, made 80, 60, 40, 30, 20 or 10? A. Why, it is easy enough to say, theoretically, that a man ought to be permitted to carry whatever amount of insurance he desired, and a rate should be made for such a condition, but I do not think there is much in it, and I do not think there is a demand for those lower percentages of co-insurance. I never heard of any except for fireproof buildings, and there it comes in as a conspicuous example of difficulty in naming a proper rate to take care of those varying conditions.

Q. That is, it might be theoretically correct, but not practical in its application? A. Yes.

By Senator Colne:

Q. Well, does practice show that for all classes of buildings the average in the matter of a loss of contents is below 80 per

cent? A. Matter of loss? Oh, yes; very much, because there is a large number of very small losses, you know.

Q. Then the 80 per cent clause would cover more than a majority of cases? A. You mean 80 per cent of insurance to value would cover more than the majority of losses in the majority of cases?

Q. Yes. A. Yes; very largely.

By Mr. Hurrell:

Q. Have you what is known as "relief rates" in this State? A. No.

Q. Do you know what that term means? A. Yes.

Q. What does it mean? A. It means that some plan is adopted by which some committee or individual is given the authority to permit the writing of insurance on individual risks at less than the published rate, and the reason why it is given the name of relief system is that it is supposed to be a relief against outside competition.

Q. Has that authority ever reposed in any committee of your association? A. It has not been for a good many years.

Q. What do you do, as a practical matter, when you find competition which writes at lower rates than you published? Lose the business? A. Generally.

By Judge Bruce:

Q. Or do you meet the competition? A. Not often, but ——

Q. (Interrupting.) If you meet it, how do you meet it? By what operation is the rate changed? A. Well, now, let's see. If we suspected competition on a scheduled rated risk, we would indicate to somebody that the best thing they could do would be to make certain improvements, which we would charge for and secure the reduction which they are entitled to under the schedule, but we do not abandon the schedule.

Q. Well, in the event that the other companies are willing to write the risk as it is? A. They take it.

Q. How do you meet the competition? A. We do not.

Q. Abandon the business? A. Yes.

By Mr. Hurrell:

Q. Now, that comes to the Chairman's question somewhat. Is it necessary to have competition before this effort of the companies which they say they are making to reduce the fire waste comes into play? A. Not at all. We are making — why, Mr. Hurrell, we are publishing rates in the usual course of our business by the thousands for reduction of improvements and risks. And as the system of schedule rating becomes more thoroughly understood by property owners they are more and more anxious to take advantage of its benefits, and the property owners are learning very readily to understand that they can, within certain limits — they can make their own rates.

Q. You use the word "generally," and while I am not trying to play on words, you said that "generally" you could meet this competition by applying the schedule and showing a man how he could save on his rate. Now, assume that all of the improvements are made to a building that can be made, so that all the credits of a schedule attached, and you still have competition on that improved building at a lower rate than your rate? A. We say, then, that is our bottom price, and if we cannot get that we will let it go.

Q. Well, when you use the word "generally," I supposed that there were some exceptions to that? A. There are a few exceptions. I started in to say that was our practice with regard to schedule rated risks. Now, we have started in to meet some competition on risks under judgment rates; not to any extent, as you can readily understand.

Q. On what? A. Risks which are now rated on judgment rates we have made some reduction.

Q. That is, by calling your rate committee together for another exchange of ideas as to whether the rate was too high, and whether you could afford to lower it? A. Yes.

Q. Do you recall any such specific instances where the rate has been reduced in that way? A. Why, I cannot now; no.

Q. Or increase? A. They are not increasing any rates.

Q. Of course, if you had a classification that would have been helpful at those times, also, as far as your past experience goes? A. (No answer.)

Q. Have you what is known as a Special Risk Insurance Association within your association? A. No. We have a sprinklered risk committee.

Q. Sprinklered risk department? A. Sprinklered risk committee.

Q. And they make the risks on all buildings protected by sprinklers? A. Yes, sir.

Q. They come in contact frequently, do they not, with the union conducted mutuals which secure insurance in this State? A. Yes, sir.

Q. Do they generally meet the competition of those mutuals by reducing the rate as low as the mutuals write? A. We are in active competition with the several classes of mutuals who are seeking sprinklered risks in our territory. First, what are known as the senior mutuals of New England; second, there is a body known as the Junior Mutuals, and third, there is a mutual company known as the Western Mutuals, and all of them are aggressive and active competitors for sprinklered risks in our territory, and we try to meet them.

Q. How do you meet them? A. Yes; to some extent; not entirely. There are a good many risks in our territory written in the union conducted mutuals that do not pay any attention to the laws of this State, and do not pay any taxes, or anything of that sort.

Q. That is where the merchants and the corporations claim their constitutional right of making a contract of insurance in another State? A. In another State, yes.

Q. How do you see that the rates are observed by your agents? I am asking now particularly for the operations of the stamping offices and the stamping clerks. We have about twenty stamping offices in the State, arranged geographically for the convenience of agents sending their daily reports to the companies through our stamping office.

Q. Now, just inform the Committee about its practical operation? A. The agent writes a daily report on the risk, and puts it in an envelope addressed to the company, with a stamp on it. He encloses his mail for the several companies which he represents, the mail for that day, in a large envelope addressed to one

of our stamp clerks, who certifies to the daily report for his territory. These daily reports are opened and compared with the tariff, with the requirements as to rules and forms of policy, and if correct he puts a rubber stamp on it, a dated rubber stamp, stating it is correct, and it is forwarded to the company the same day.

Q. That is a sort of temporary stop of the daily report on its way to the home office to get the endorsement of the man that tells the company whether the rate is proper, according to the association? A. Yes. The companies could not well do that in their own offices; they find it more convenient to have it done this way.

Assemblyman COLNE: It is a sort of checking system?

The WITNESS: Yes.

Chairman MERRITT: So as to make the system work?

The WITNESS: Yes.

Q. It is an absolute check on whether all conditions in the rules are observed, and the association's rates? A. Obviously.

Q. That is the purpose of it? A. One purpose.

Q. What is the other purpose? A. Well, really the main purpose, as I told you before, frankly, was the companies could not do it in their own offices.

Q. You mean, they do not have the knowledge? A. They do have copies of our tariffs, but in the details of their offices they would not be able to do it as intelligently as we would be able to do it for them. They prefer to have us do it for them rather than try to do it themselves; just as they prefer to have us make rates for them rather than of the eighty-four companies, have each company to try to make them for themselves. That is the fact about it.

Q. I suppose this system of stamping clerks and offices in the territory throughout the country where the companies do business save having a lot of men at the home office, and having the rates of the various cities and districts in their home offices, they simply get the stamp clerk's O. K. on them and they know the rate is right, according to the association? A. Yes.

By Judge Bruce:

Q. Then, incidentally, at the same time, you know whether they are observing the rules with reference to rates, do you not? A. Yes.

Q. That is not a mere incident of the scheme, is it? A. I don't say it is.

Q. It is one of the primary purposes, is it not? A. It is one of the purposes, yes.

By Mr. Hurrell:

Q. What is your opinion, Mr. Jenness, of the desirability or otherwise, of a fire marshal law? A. I think it would be the very best thing this State could do.

By Judge Bruce:

Q. State what it is? A. Let me see, now. The State Fire Marshal's duties would be to inquire, with his assistants, of course, to inquire into all fires, their causes and that sort of thing, the operation of which would be to check incendiarism. Foreign countries, you know, exercise a great deal more control over those things than we do, and I think the results have been very beneficial. If persons considering incendiarism, if they knew that every fire was to be very closely and rigidly investigated, I think it would be a deterrent. I think there would be less fires.

Assemblyman Foley: You have not a report of the losses in those States that have fire marshals?

The Witness: It goes back to the old question, whether there is a reduction for this cause, or an increase for another cause. There are so many causes it is pretty hard to tell.

By Assemblyman Colne:

Q. Would you confine the fire marshal's investigation to incendiarism only? Wouldn't the idea be to investigate as to the use of certain building materials and different styles of construction, etc., wouldn't they be matters of interest to the companies,

as recommendations from them? A. I should think that the cities would invoke home rule to the extent that they would resent the interference of the State in the conducting and control of their building laws.

Q. I didn't mean as to the code of building, but probably as a matter of materials to be used? A. That might be included; I am not sure.

By Chairman Merritt:

Q. You contribute to the local fire departments a percentage? A. The companies do.

Q. The companies do. Well, it amounts to the same thing, that is, your associates do? A. Yes.

Q. It has been suggested that in view of that fact, it would not be unfair if the local fire departments were compelled to maintain a system of inspection, which has been known to have a very wholesome effect. I knew one case where it was tried. It was not tried in consideration of that contribution, but the contribution was substantially used for some three or four years in that way, by the employment of proper men to go every three months or every six months through the property of a certain class, say of dwellings, and to inspect them to see whether the cellars were full of rubbish, and things of that sort. It arose, as all those things do, where people, volunteer firemen, risk their everlasting welfare by going down in sub-cellars where fires have started, due to no other cause than pure carelessness on the part of the occupants of the property; perhaps it would not happen in the city, such things as that could be very easily provided for by general legislation. There would not be any trouble about it, I don't think, nor any great protest, if it were worth while. A. The value of it would depend on the character of the inspector, and the authority he had to compel improvements.

Q. It would be a question of general effect, very much like the method — you don't want to be tied down to figures. You cannot tell what specific fire they might prevent, but, on the whole, it might be a wholesome thing? A. Yes; there would not be any objection to it, I think.

By Judge Bruce:

Q. Do you know how many States have a fire marshal law? A. No, I do not. I never looked into that very carefully, but my general impression is I am in favor of a State Fire Marshal Law. In Massachusetts and Ohio where it has been tried, I have heard it was a very decided success. I haven't given the system any particular investigation.

By Mr. Hurrell:

Q. Mr. Jenness, do you think it would be helpful to the companies to have a State board for the regulation of rates? A. You mean —— Just what do you mean?

Q. Some States are trying State supervision of rates to the extent of taking up and averaging the rates which the companies make? A. I do not see any necessity for it. I have not observed its work very well where it has been tried.

Q. One effect in one State was that there was a general advance in rates? A. Yes.

Q. Of course, that would not be unwelcome to the companies, would it? A. I don't think they care for it, I don't think they care to have it.

By Judge Bruce:

Q. You mean by that the arbitrary advance of rates of companies, because of the passage of such a law, and the creating of such a commission? A. No, I do not mean by that there was an arbitrary advance of rates by the companies at all. I mean that the operation of the law produced an advance of the rates.

Q. In what way? A. I don't know the machinery of it well enough to explain it to you.

Q. How would the operation of the law result in an advance of rates? A. I cannot tell you the details of it; I would not attempt to explain it.

Q. Do you mean advancement of rates by the companies, or advancement of rates by the board itself? A. I shall have to plead ignorance of the machinery. I cannot tell you, except I have heard that was the result.

Q. I think what Mr. Hurrell had in mind was that the board at the suggestion of the companies had advanced rates in some instances. A. (No answer.)

By Mr. Hurrell:

Q. The hearsay I was seeking to illustrate was that in the State of Texas, where the State board took hold of the matter in classifying rates, ordered the companies to put rates up on certain classes, which brought forth a protest which brought about a repeal of the law? A. That is my hearsay, but I cannot explain the way in which it came about.

By Judge Bruce:

Q. Do you recall whether or not they did not direct them at the same time to lower it on other classes? A. I don't know, Judge. I wouldn't like to express an opinion about that thing. I don't know enough about it.

Chairman Merritt: The Committee will take a recess until two o'clock.

AFTER RECESS.

Chairman Merritt: The Committee will be in order.

Frank K. Sturgis, called as a witness, being duly sworn, testified as follows:

By Mr. Kresel:

Q. Mr. Sturgis, where is your office? A. 36 Broad street.

Q. You are a banker? A. I am.

Q. Are you officially connected with the Jockey Club? A. I am.

Q. And what position do you hold? A. I have been secretary and treasurer of the Jockey Club since it was formed in 1894.

Q. Do you know Mr. Daingerfield? A. Very well.

Q. Is he an official of the Jockey Club? A. He is the present assistant secretary and treasurer.

Q. Are the records kept by Mr. Daingerfield as assistant secretary? A. They are kept by Jasper & Harrington, expert accountants, under his supervision.

Q. What I mean is, you personally do not take the minutes of the meeting, do you? A. I do not.

Q. Though you are the secretary in name? A. Quite right.

Q. Nor do you keep the treasurer's books? A. I do not.

Q. Are you connected with any racing association? A. I am a trustee of the Westchester Racing Association.

Q. Is that the only one? A. I am a trustee of the Turf and Field Club; that is all.

Q. And Mr. August Belmont is the president of the Jockey Club? A. Chairman of the Jockey Club.

Q. Now, the Jockey Club, as I understand it, is governed by stewards? A. Seven stewards.

Q. There is no executive committee, is there? A. No executive committee.

Q. The governing body is the board of stewards? A. The board of stewards.

Q. Now, Mr. Sturgis, what has been the system among the racing associations and the Jockey Club with regard to the payment of the legal expenses? A. It has varied according to the matter under consideration.

Q. And in what way has it varied? A. Sometimes each of the associations pay their own expenses; sometimes the joint expenses have been paid through the office of the Jockey Club.

Q. And in making payments for legal expenses on behalf of the racing associations the Jockey Club acted as agent for those associations? A. On several occasions.

Q. Generally speaking, Mr. Sturgis, in what matters did the Jockey Club act as disbursing agent for the racing associations in regard to their legal expenses, and in what matters did the associations take care of it themselves? A. Where the interests were a common interest.

Q. Where the interests were common, in such cases the Jockey Club acted? A. It has acted.

Q. That is, where all the racing associations were interested in any particular matter, then it was that the Jockey Club paid

the legal expenses, and then collected from the various racing associations their pro rata share of such expenses? A. We did that on several occasions.

Q. I find in the ledger of the Jockey Club three legal expense accounts, known as legal expense account No. 1, legal expense account No. 2, and legal expense account No. 3. Do I understand correctly that legal expense account No. 1 contains the legal expenses of the Jockey Club alone; that is, where the racing associations did not contribute? A. I would rather you would ask Mr. Daingerfield; he is more familiar with that.

Q. I notice that the legal expense account No. 2 is headed, "Legal expenses as agent for the various associations?" A. Yes, sir.

Q. That would indicate that that account contains entries of payments by the Jockey Club in cases where it acted as agent for the racing associations? A. That is correct.

Q. And legal expense account No. 3 is headed, "Legal expense for various associations and the Jockey Club." Would that indicate, Mr. Sturgis, that these are records of legal expenses paid by the Jockey Club, where it and the various racing associations were interested in the matter? A. Yes.

Q. Now, in legal expense account No. 1, Mr. Sturgis, I find that in 1906 the legal expenditures were $92,642.56? A. In 1906, yes.

Q. In 1907, this account No. 1 indicates that the legal expenses were $4,160.45; is that correct? A. Yes.

Q. And in 1908 the legal expenses in this account No. 1 were $5,714.29? A. Yes.

Q. Now, can you tell me, Mr. Sturgis, whether in 1908 the Jockey Club acted in any way as agent for the racing associations in paying legal expenses? A. In 1908; yes.

Q. It did? A. Yes.

Q. And can you tell me how much the Jockey Club paid out in legal expenses in 1908, acting as such agent for various racing associations? A. There was raised the sum of $40,000.

Q. Was that the only amount raised, Mr. Sturgis, for legal expenses in 1908? A. The only amount, to my knowledge.

Q. That is, the $40,000 that you speak of was raised by contributions from various racing associations? A. Yes, sir.

Q. And from the Jockey Club? A. Yes.

Q. I notice that in legal expense account No. 2, there is an expenditure in 1908, under date of February 29th, check for $12,500, which appears to have been repaid to the Jockey Club under date of October 31st, $10,000; under date of April, 1909, $2,500? A. That was 1907.

Q. No, this was 1908. A. Yes, but the money was collected in 1907; there is your credit item.

Q. No, I think you are in error, Mr. Sturgis; the 1907 entries appertain to the expenditure of $20,000 under date of August 31st, 1907. I am directing your attention to the entry under date February 29, 1908, $12,500, which appears to have been repaid under date October 31st, 1908, and April, 1909? A. Mr. Daingerfield ——

Q. I will call Mr. Daingerfield in a few minutes. A. I told you I was not familiar with all of these items.

Q. I simply directed your attention to that $12,500 entry as indicating that in 1908 there was in addition to that $40,000 which you speak of, this expenditure of $12,500? A. Yes, sir.

Q. Were there any other expenditure for legal expenses in 1908 besides this $40,000 and this $12,500? A. Not to my knowledge, as I stated to you before.

Q. Now, it would appear, Mr. Sturgis, from legal account No. 2, that in 1906 and in 1907 the Jockey Club did act as agent in paying various legal expenses, but that in 1908 its sole expenditure was $5,714.29; under legal account No. 1; so that in 1908 the Jockey Club did not act as agent in disbursing funds for the legal expenses of the various racing associations? A. Not except to that extent.

Q. Can you tell us why a change was made in 1908 from the system that was in vogue in 1906 and in 1907? A. Yes.

Q. Will you please tell us? A. In 1908 Mr. Belmont requested the different associations to form a fund, which money should be set aside outside of the Jockey Club funds and used for legal expenses; as the time bore on, one year or two years after that period, it was kept apart from the Jockey Club books entirely and was deposited in the Standard Trust Company.

Q. Why was that? A. Because it was not Jockey Club ex-

penses that had been incurred. It was money which Mr. Belmont wanted to be used by him under advice of counsel in legal matters that might come up in connection with our racing interests.

Q. That is, that $40,000 was contributed by the various racing associations in 1908 for future legal expenses? A. For future legal expenses.

Q. Do you recall what month in 1908 those contributions were made? A. I can give you the exact figures.

Q. I just want the date for the present, if you will please? A. They were made at different dates.

Q. Were not the first payments made in November, 1908? A. The first payment was made on the 16th day of November, 1908, by the Westchester Racing Association.

Q. Now, what I should like to know, Mr. Sturgis, is about the legal expenses that were incurred prior to November, 1908, and during that year; why it was that the system of the Jockey Club, acting as disbursing agent for legal expenses for the various racing associations, was changed, and in 1908, prior to November, the various racing associations apparently paid their own legal expenses? A. I will tell you.

Q. Please. A. The Jockey Club always keeps a reasonably large cash balance with us as bankers, sometimes they have $100,000 and sometimes somewhat more.

Q. When you say with us, you mean with your firm? A. Yes, sir.

Q. Strong, Sturgis & Co.? A. Yes, sir. In the instances prior to this $40,000, of which I have spoken, when the bills came in for legal services, those were for services already rendered. Those bills the Jockey Club paid, and then subdivided amongst different racing associations according to the number of days that each association had raced. It was a fixed sum; we knew what the division should be, and it was a simple matter to apportion it. In the $40,000 which was raised in 1908 we did not know where that money would go, to which counsel it would be paid, and it was better to put it in a separate account, and it was put in the Standard Trust Company, of which I am an officer.

Q. Well, that explains the reasons for the contributions amounting to $40,000, but it appears, does it not, Mr. Sturgis, that all

the legal expenses prior to November, 1908, during that year were not paid by the Jockey Club for the association? A. In 1908?

Q. Yes. A. Our heaviest expenses were in 1906 and 1907.

Q. Yes. A. In 1908 that was our own share; that $5,000.

Q. That is right; yes. Just what I am calling your attention to—— A. (Interrupting.) $5,714.29. That was the Jockey Club's share.

Q. That is between the 1st of January, 1908, and November, 1908? A. Yes.

Q. The only legal expenditure that appears on the Jockey Club's books is this five thousand and some odd dollars? A. $5,714.29.

Q. Yes, and it does not appear that between January 1, 1908, and November, 1908, the Jockey Club paid any legal expenses for any of the racing associations. That is right, isn't it? A. Well, there is the ledger.

Q. But that is right, isn't it? A. To the best of my knowledge and belief.

Q. Well, in 1906 and 1907, they did act as disbursing agent? A. We did.

Q. Now, I should like to know if you can explain why this change was made for the year 1908? A. I have endeavored to set forth that the previous expenditures by the Jockey Club on behalf of the different racing associations was for bills that were rendered, and as the Jockey Club had the cash, paid the bills and then subdivided it *pro rata* amongst the different associations according to the number of days that each association raced.

Q. Well, it appears, though, Mr. Sturgis, that between January 1, 1908, and November, 1908, there were no payments made by the Jockey Club either on its own account or on account of any of the racing associations? A. The ledger is there, that must be true.

Q. Would that indicate, Mr. Sturgis, that neither the Jockey Club or the racing associations had any expenses to pay between the 1st of January, 1908, and November, 1908? A. No legal expenses in which we were all mutually interested. Whatever the other associations may have paid, I know not, but as far as the

matter in which we are all jointly interested, that was the only payment in that year. I can give you the list of the payments as to the $40,000, if you would like to have them.

Q. Now, you are aware, are you not, Mr. Sturgis, that in the spring of 1908 there was pending before the Legislature of this State what are known as the anti-racing bills? A. Yes.

Q. In these bills, I take it that both the Jockey Club and the various racing associations were very much interested. Am I not correct? A. Correct.

Q. And they were interested in seeing that they be not enacted into law? A. Correct.

Q. That would then appear to be a matter in which both the Jockey Club and the racing associations were vitally interested. Well, will you tell us, then, Mr. Sturgis, how it is that the legal expenses which were incurred, and I take it there were some legal expenses incurred in opposing those bills, were not paid by the Jockey Club, and then contributions levied or collected from the racing associations, as had been done in 1907 or 1908? A. I can only say there were no bills paid by the Jockey Club. Our ledger states the truth.

Q. I do not say that it does not. I say that the Jockey Club has no entries of any payments which would indicate that there were not any made by the Jockey Club; but do you say that there were not any legal expenses incurred? A. None to my knowledge.

Q. By any of the associations? A. I am not prepared to speak for any of the other associations. I speak for the Jockey Club.

Q. Well, take the Westchester Racing Association, with which you are connected? A. I am a trustee of the land. I am not on the executive committee of the Racing Association of Westchester county.

Q. You do not know about its expenditures? A. No.

Q. Well, now, this fund of $40,000 which was raised — was that the result of a discussion at a meeting of the Jockey Club? A. No. We had a great deal of litigation in regard to all of the race tracks, and it was quite evident that bills would come in in reference thereto. We also were very heavily engaged in what we called our publicity business. We had newspapers that were being sent to every agricultural association throughout the State,

as well as in Kentucky and Tennessee. We felt that the thoroughbred horse was attacked and our racing interests could be properly aided if we could set before the community our views regarding the wisdom of keeping the thoroughbred horse up to the high standard that we thought we had brought it, and we had newspaper agents throughout this State, throughout Kentucky and Tennessee, and Virginia and elsewhere, writing and sending pamphlets, periodicals and papers of all kinds.

Q. That was while the anti-racing bills were pending in the Legislature? A. Partially, and partially subsequent. That extended clear through into 1909.

Q. So that at least part of this $40,000 was intended for the payment of expenditures incurred in opposing, in the way that you have described, the passage of the anti-racing bills? A. Will you permit me to tell you just what portion was expended?

Q. Yes. We will come to that directly. Now, in the case of this fund of $40,000, the various racing associations were assessed according to the number of racing days, I understand? A. Yes.

Q. And the Jockey Club likewise paid their proportionate share? A. We paid the same proportion that the Coney Island, Westchester and Brooklyn paid, for the reason that Westchester, Belmont Park, so-called, Coney Island and the Brooklyn are the three component race courses of the Jockey Club according to its constitution. When the Jockey Club was formed, these three racing associations agreed to abide by the Jockey Club rules, and they are always known as the component race courses of the Jockey Club. Therefore we, the stewards of the Jockey Club, thought it was right that we should join to the same extent that those three associations did, and we paid the same amount of money.

Q. Yes, and the checks were sent to you as treasurer of the Jockey Club? A. As treasurer of the Jockey Club, and placed by me in a special account with the Standard Trust Company, as treasurer.

Q. Was there any particular reason for placing this particular $40,000 in a special fund? A. Only the reason I gave you before, sir, which was that we did not know in which direction this money would go, and I preferred not to have so large a sum of money mixed, as it were, with the current working of the Jockey Club's fund. It was not strictly our business.

Q. Well, it was as much the business of the Jockey Club as it had been in 1906 and 1907 to pay the expenditures and then to collect from the other racing associations? A. No. I must correct you there. The expenditure of this $40,000 was not an act of the stewards of the Jockey Club. This was referred to Mr. August Belmont, with power to advise with counsel, and he had the disbursing of the money.

Q. Well, there was nothing exceptional about these disbursements, was there? A. Nothing.

Q. The disbursements were made for legitimate purposes? A. Precisely.

Q. For legal expenses, and for this Press Bureau? A. Yes.

Q. And such legal expenses had been paid in 1906 and 1907; similar legal expenses? A. The expenses which were paid in 1906 and 1907 were on bills rendered, so that we knew exactly what the proportion of each race course was going to be. This $40,000 which was placed in Mr. Belmont's hands was to be expended by him. It was a future condition, and did not properly come upon the Jockey Club's books. It was not a club affair. It was an action independently by the different racing associations, and he might never have expended one dollar of it if he had not seen fit to do so.

Q. I see. And as a matter of fact these expenditures were not entered on the Jockey Club's books? A. Not at all.

Q. Now, having deposited this sum in the Standard Trust Company, has it been expended? A. $31,000 of it has been expended, and there remains to my credit there $9,000 and some accumulated interest.

Q. Did you expend this $31,000? A. I did not.

Q. Who did? A. Mr. August Belmont.

Q. Did you draw checks to Mr. Belmont at his request? A. I did.

Q. And have you those checks with you? A. I have them here.

Q. Are they all drawn to Mr. Belmont? A. All drawn to August Belmont.

Q. You drew them at his request? A. At his request.

Q. Do you know what the $31,000 was spent for? A. I have Mr. Belmont's written statement of what he expended it for.

Q. You have no personal knowledge? A. I have no personal knowledge.

Q. Now, Mr. Sturgis, do you know whether in 1907 there was any legislation pending in this State affecting racing interests in which the Jockey Club and racing associations were interested? A. I cannot recall the different years.

Q. You remember, of course, that in 1908 the Agnew-Hart racing bills were passed? A. Yes.

Q. In 1907, just a year previous to that, can you recall any legislation in which your associations were interested? A. No.

Q. I find that the Jockey Club paid in 1907 two bills to Mr. Edward P. Coyne. You know Mr. Coyne? A. I met him once.

Q. He was a lawyer? A. I believe a very excellent one.

Q. And he was retained by the Jockey Club, was he? A. He was retained by all the associations.

Q. Including the Jockey Club? A. The Jockey Club included.

Q. I find that on the 1st of July, 1907, $20,000 was paid by the Jockey Club to Mr. Coyne, for which, I take it, this bill which I show you was rendered (handing a paper to witness)? A. I think that is correct.

Q. Now, this bill reads in part as follows, Mr. Sturgis: "To counsel and professional services rendered in opposition to adverse legislation proposed during the year 1907 session of the State Legislature, including attendance at State Capitol, practically daily consultation with various members of the Legislature, representatives of fair associations and agricultural societies," and so on, which would indicate, would it not, Mr. Sturgis, that there was some adverse legislation proposed during the 1907 session of the Legislature? A. It would.

Q. Can you recall — does this in any way refresh your recollection as to what that legislation was? A. No, it does not, for this reason: The legal business of the Jockey Club was always transacted by Mr. August Belmont under advice of counsel. I had practically nothing to do with the legal side of it. My instructions from the stewards of the Jockey Club were to pay to Mr. Belmont such sums of money, within certain conditions, as he asked for, and to pay such bills as were approved by counsel and endorsed by Mr. Belmont. I knew nothing about other matters in connection with it.

Q. So that we can take it, can we, that this payment of $20,000 to Mr. Coyne was made under the direction of Mr. Belmont? A. You can.

Q. I find also another bill from Mr. Coyne, under date of September 1, 1907, for $20,290, for which I take it this bill (handing a paper to the witness) was rendered? A. I think so.

Q. Now, can you tell us what services Mr. Coyne rendered for which this latter bill was rendered? A. That was not in my department of the Jockey Club's affairs.

Q. That was paid under the direction of Mr. Belmont? A. Quite right.

Q. It would appear, would it not, Mr. Sturgis, from these two bills, that between July 1, 1907, and September 1, 1907, Mr. Coyne was paid $40,290? A. It would so appear.

Q. Was this expenditure of $40,290 subdivided among the various racing associations? A. I think it was.

Q. The bills, you see, are rendered to the Jockey Club? A. Yes.

Q. And they were paid by the Jockey Club, were they not — I mean in the first instance? A. I think they were.

Q. That is, the racing associations contributed proportionate shares? A. I am not very familiar with the details, but I think they were.

Q. Now, in 1908, Mr. Sturgis, did Mr. Coyne act as counsel for the Jockey Club? A. I could not tell you.

Q. These bills that I have shown you were 1907. Do you know whether any payments were made by the Jockey Club to Mr. Coyne in 1908? A. I do not know.

Q. Do you know whether Mr. Coyne was representing the Jockey Club or any of the racing associations in their attempt to defeat the anti-racing bills of 1908? A. I cannot tell you of my own knowledge.

Mr. KRESEL: I want to have these two bills marked in evidence.

(Received and marked in evidence Exhibits 47 and 48.)

Q. I find, Mr. Sturgis, that the Coney Island Jockey Club on January 13, 1908, paid Mr. Coyne $2,500, for which I show you

a receipt, Exhibit No. 40. (Hands paper to witness.) A. (No answer.)

Q. Would that indicate that Mr. Coyne acted for all the associations and that was a *pro rata* payment by the Coney Island Jockey Club? A. I know nothing about that.

Q. Is there any entry on the ledger of the Jockey Club showing any payment in 1908 to Mr. Coyne? A. (Witness refers to a book.) No.

Q. And of your own knowledge, I understand, you cannot tell us what the legal services were that Mr. Coyne rendered in 1907, for which he was paid this $40,000? A. No, I cannot. Mr. Coyne was recommended to the various racing associations by Mr. Wadsworth, and I know he did a great deal of work for racing interests, the details of which I do not know, and never did know.

Q. Which Mr. Wadsworth? A. The Speaker.

Q. Speaker Wadsworth? A. Yes.

Q. Do you mean young Mr. Wadsworth, or the father? A. I mean the son.

Assemblyman FOLEY: The father was a member of the State Racing Commission, wasn't he?

The WITNESS: At one time.

Assemblyman FOLEY: At that time; he is now.

The WITNESS: 1908; I think he was.

Q. Now, you spoke about the Press Bureau, or the Publicity Bureau, I don't know just what term you used, I do not recall; in a general way, you have explained that you had people going through the various counties in some of the States and attempting to create some favorable comment for the racing interests in the public press. A. We employed Mr. Fitzgerald as, what we called, our publicity agent; and he wrote numerous pamphlets, and he also wrote letters which were published, and made statements — I do not know that he made speeches — but he brought himself in touch with the various agricultural interests and the interests of horse breeders, not only in this State, but throughout the West. On that we spent a great deal of money. We then had another agent, a Mr. Maurice Minton, to whom we paid $5,000, which is part, the $5,000, of that expended in the $31,000 which I have

told you was placed in the Standard Trust Company. We then had a still further agent who was used by us for this same purpose. He wrote very extensively in the press, and his name is J. T. Hettrick; and to him we paid, on April 26, 1909, the sum of $200; May 4th, 1909, the sum of $1,500; and May 6, 1909, the sum of $1,800; making the total payment to Mr. Hettrick by Mr. Belmont, according to the figures here, of $7,000.

Q. And how much was paid to Mr. Fitzgerald? A. Mr. Fitzgerald, $10,000 in one payment, and I am not positive whether there was more than that at that time; but we spent a great deal more than that at different times.

Q. Was this publicity expense incurred in 1908? A. Well, it ran along for two or three years; you see the dates of these payments of Mr. Belmont were not until 1909.

Q. Some of them were not until 1909? A. Some of them.

Q. And were any prior to November, 1908? A. Prior to November, 1908? I could not say that without I refreshed my memory.

Q. Of this $40,000 which was placed in your charge, how much was spent for publicity? A. $12,000; $5,000 to Maurice Minton, and $7,000 as I have just explained to you.

Q. But that is by no means all that was spent on publicity? A. Oh, no.

Q. Could you give us the approximate figures of about how much those expenditures amounted to? A. In addition to the figures I have already given you?

Q. Yes. A. Oh, perhaps fifteen or twenty thousand dollars more.

Q. How much of that sum, Mr. Sturgis, do you think was spent on publicity in 1908? A. I could not tell you exactly without looking up the stubs of the check books.

Q. There is an account in the ledger of the Jockey Club, for press work, to which I direct your attention, amounting to $2,362.40 in 1907, $6,803 in 1908? A. Yes.

Q. That was separate and apart from the $12,500 which was spent out of the $40,000? A. Yes, separate and apart. That $12,000 was not paid out until 1909.

Q. For work done in 1908? A. In both years; continually.

Q. 1908 and 1909? A. Yes.

Q. There is no record on the books of the Jockey Club of this $40,000; how it was expended? A. No, sir.

Q. Is there any record anywheres but these checks that you have? A. On the Standard Trust Company's books.

Q. Yes. A. Nowhere else.

Q. I notice, Mr. Sturgis, a letter here from Mr. Fitzgerald to the treasurer of the Coney Island Jockey Club, acknowledging receipt of $2,216.49 for legal services; that was press work, wasn't it? A. I could not say. That is the Coney Island Jockey Club.

Q. That is the Fitzgerald you spoke of? A. The same man.

Q. C. J. Fitzgerald? A. C. J. Fitzgerald

Q. Now, was there a committee of the Jockey Club which had charge of apportioning the legal expenses among the various racing associations? A. No committee.

Q. Was there any committee, whether of the Jockey Club, or of the racing associations, that had charge of that? A. No; I had my instructions from the board of stewards of the Jockey Club to apportion it according to the number of days of racing.

Q. So you did the apportioning? A. It was done by the expert accountants, Jasper & Harrington, at the direction of the officers of the Jockey Club.

Q. Under your supervision? A. Under Mr. Daingerfield's supervision. I was not in the office of the Jockey Club very much up town.

Q. The reason I asked whether there was any committee, Mr. Sturgis, is that in a letter from Mr. Daingerfield, under date of October 23, 1908, to Mr. Hitchcock, the treasurer of the Coney Island Jockey Club, he writes that, "I am instructed by the committee appointed to audit legal expenses to request you to draw check payable to my order for transmission to Mr. R. C. Cummings, Attorney-at-law;" that would indicate, would it not, that there was some committee? A. Mr. August Belmont; it was referred to him with power, under advice of counsel.

Q. Then the committee mentioned there was Mr. Belmont? A. Mr. Belmont.

Q. And speaking about the publicity account, I find a letter also from Mr. Daingerfield to Mr. Edwards, the secretary of the

Metropolitan Jockey Club, in which he says: "Enclosed, please find memorandum of the amount due by the Metropolitan Jockey Club for their pro rata share of publicity account. This account was approved at the same time the legal expenses were, and prorated on the same basis; if consistent, will you let us have check," and so on, and the amount was $2,586.04. That, too, was a payment outside of the $12,000 that was disbursed out of the $40,000, outside of this $6,803 that appears on the Jockey Club's books? A. That is right.

Q. Now, Mr. Sturgis, there are no entries, as we pointed out before, on the books of the Jockey Club, showing that there was any distribution made of legal expenses in 1908, but that the various associations paid their own expenses. That appears, doesn't it, from the books? A. The Jockey Club, by the ledger, appears to have made but one payment for legal expenses in 1908.

Q. That was the $4,700 and odd dollars? A. Five thousand seven hundred and odd dollars.

Q. Which was a proportionate share of this $40,000? A. It was the same proportion that the three large race courses paid.

Q. Now, I show you a letter from Mr. Daingerfield, directed to Mr. Reynolds, president of the Metropolitan Jockey Club, under date of December 26, 1908, in which he writes as follows: "A committee of the various racing associations has audited and reduced many of the legal accounts. Your total proportion of the reduced accounts was $13,704.31, on which you are credited with $9,113.21; leaving a balance due of $4,591.10." That would indicate, would it not, that in 1908, each of the racing associations were assessed, if I may use that term, for legal expenses, $13,704.31? A. Will you conclude the letter?

Q. Pardon me? A. Read the rest of the letter.

Q. (Reading.) "I am instructed by the committee to request you to make check payable to order of A. Daingerfield. Only one account of which we have given notice remains unpaid." A. I am not familiar with that matter.

Q. The amount assessed upon the Metropolitan Jockey Club for legal expenses, apparently in 1908, was $13,704.31; and following the general rule of assessing equally upon the large companies, it would indicate, would it not, that the racing associa-

tions in 1908, paid, each of them, something over $13,000 for legal expenses? A. It would look so.

Q. Is this Metropolitan Jockey Club one of the large racing associations, or one of the smaller ones? A. The Metropolitan races under license; it is what is known as a licensed race course; it is not one of the component clubs of the Jockey Club.

Q. The apportionment was made, I take it, upon the number of days, the number of racing days, that each association had. A. I presume so.

Mr. KRESEL: That is all, Mr. Sturgis.

ALGERNON DAINGERFIELD, called as a witness, being duly sworn, testified as follows:

By Mr. KRESEL:

Q. Mr. Daingerfield, you are the assistant secretary of the Jockey Club? A. I am.

Q. And for how long a time have you held that office? A. Eight years; eight years next spring, to be literal.

Q. And as such assistant secretary do you keep the minutes of the meetings of the stewards of the Jockey Club? A. I do.

Q. And under your supervision, I understand, a firm of expert accountants keeps the books of the Jockey Club? A. They do.

Q. And have you produced here certain of the books of account of the Jockey Club? A. I have.

Q. Is this book, which is before you, the ledger of the Jockey Club? A. Yes, from 1906.

Q. From 1906? A. Yes, sir.

Q. And have you there the cash book of the Jockey Club? A. Yes, sir.

Q. And have you the minute book? A. I have, from 1906 to date.

Q. Now, I want you to make clear, Mr. Daingerfield, the meaning of the three legal expense accounts which I find in this ledger, the first one, legal expense account No. 1, does that contain a record only of such legal expenses as were paid by the Jockey Club itself? A. Paid by the Jockey Club.

Q. That is right? A. Yes, sir.

Q. Legal expense No. 2 contains a record of legal expenses paid by the Jockey Club acting as agent for various racing associations, is that right? A. Quite right.

Q. And legal expense account No. 3 contains a record of legal expenses paid by the Jockey Club both for itself and for the racing associations? A. Quite right, sir.

Q. Now, does your ledger show that in 1906 the legal expenses paid by the Jockey Club were $92,642.56? A. Yes, sir.

Q. Does your ledger show that in 1907 the Jockey Club and the various associations together paid legal expenses of $62,978.22? A. It does, sir.

Q. And also in 1907 the Jockey Club paid, as agent for the various associations, $20,000, is that right? A. It does.

Q. And in 1908 the only payment made by the Jockey Club for itself was $5,714.29? A. I believe that is correct, sir.

Q. That is what your ledger shows? A. Yes, sir, the figures are there.

Q. And also in 1908 the Jockey Club paid, as agent for various associations, $12,500? A. Yes, sir.

Q. Has the Jockey Club been reimbersed for this $12,500? A. They have.

Q. And they were reimbursed according to this ledger by two payments, $10,000 on October 31, 1908, and $2,500 in April, 1909? A. Quite right.

Q. Now, what associations made these two payments to the Jockey Club? A. Various associations shared in it.

Q. Have you a record of what associations made those payments? A. I presume I have. I paid it individually, sir, with my personal check for collection account of A. Daingerfield from the associations, and I presume I have it.

Q. Do I understand that you personally out of your own personal funds —— A. No, sir, not my personal funds, funds collected by me personally, paid to the Jockey Club in two separate checks, $12,500; one for $10,000 and one for $2,500.

Q. That is, you personally collected these two sums? A. I did, sir.

Q. From some racing association? A. From the various racing associations.

Q. And turned the money back to the Jockey Club? A. I did, sir.

Q. Now, you say you think you have a record of what associations made those payments to you? A. Yes, sir.

Q. Is there any record on the books of the Jockey Club? A. None at all; it was not a matter of the Jockey Club.

Q. It was not a matter of the Jockey Club? A. No, sir.

Q. I wish you would look that up, will you, Mr. Daingerfield, and let me know who the associations were? A. I will; if you have a court officer I will send and get it.

Q. Can you recall now? A. The various racing associations I think, sir, also contributed, except possibly the Westchester Racing Association, which had paid more than its proportion and to whom a refund was made, and then some collected by me.

Q. By the way, did you do the apportioning of the legal expenses? A. At times, sir, I continued it on the basis as I found it, per diem basis.

Q. That is, since you have been the assistant secretary you have apportioned the legal expenses that were paid by the Jockey Club in proportion to the number of racing days of each association? A. Yes, sir.

Q. And you sent out the notices, did you? A. Yes, sir.

Q. To the various associations? A. Yes, sir.

Q. Informing them what the contribution was required from each? A. I did.

Q. Was there a committee that apportioned these payments at any time? A. Not of the Jockey Club.

Q. Was there a committee of the racing associations? A. There was.

Q. So that there were two bodies that did the apportioning, you representing the Jockey Club and a committee representing the associations? A. Yes, sir.

Q. And who composed the committee representing the associations? A. In 1908 the only committee I specially recall were Mr. H. K. Knapp, F. R. Hitchcock and W. H. Reynolds.

Q. Mr. Reynolds represented the Metropolitan? A. Yes, sir.

Q. Mr. Hitchcock of Coney Island? A. Yes, sir.

Q. And whom did Mr. Knapp represent? A. I do not know

that any one represented any specific racing association; they were a committee appointed by the representatives of all racing associations.

Q. With what racing association was Mr. Knapp connected? A. I really don't know; he was a steward of the Jockey Club.

Q. A steward of the Jockey Club? A. Yes, sir.

Q. Was he connected to your knowledge with any racing association? A. I really don't know.

Q. Is he the same Mr. Knapp who is the chairman of the racing commission of the State? A. He is a member of the State Racing Commission.

Q. A member of it? A. Yes, sir.

Q. And in 1907, Mr. Daingerfield, do you know who composed the committee representing the racing association in this apportionment? A. No, I do not recall that in 1907 a committee was appointed.

Q. Now, what legal expenditures in 1908 were there apportioned; none that were paid by the Jockey Club, were there? A. None at all, sir, except that one item of the Jockey Club.

Q. That was not apportioned with anybody? A. No, sir; it was apportioned because the Jockey Club contributes a sum equal to that of any other association.

Q. But what legal expenditures did you and this committee representing the associations apportion among the various associations? A. I do not recall accurately, sir; I should think the associations would show that; I am not an officer of them.

Q. Who paid the legal expenses which you afterwards apportioned? A. The various associations paid to me a sum aggregating $31,000, which I closed up in various accounts.

Q. In 1908? A. In 1908.

Q. Do you recall it was $31,000? A. Yes, and some dollars and cents.

Q. And those were legal expenses incurred in 1908? A. Yes, sir.

Q. Have you the bills for those? A. I have the checks and receipts, I don't know whether I have the bills or not; no, I have no bills; I never saw any bills.

Q. No bills were rendered? A. No, sir.

Q. How did you come into possession of the fact when the $31,000 was required? A. Various racing associations had paid various sums in legal services, and there were still outstanding this sum of $31,000, a reduced amount.

Q. That is, the $31,000 which you subsequently collected did not constitute the entire legal expenses for 1908? A. No, sir, a balance.

Q. That was only a balance still remaining unsettled? A. Yes, sir.

Q. I will advert to my question, where did you get the information from; there was still $31,000 to be paid? A. From the parties to whom it was due, sir, endeavoring to collect the amount.

Q. Can you tell me who they were? A. Messrs. Davies, Stone & Auerbach, R. C. Cummings, F. K. Lord, E. P. Cohen, C. J. Fitzgerald, and a refund to the Westchester Racing Association, and $12,500 to the Jockey Club.

Q. Besides this $31,000, how much had the racing associations paid in legal expenses? A. I have no knowledge.

Q. Can you give us an approximate figure? A. Not the vaguest. I am not an official or employe of any association.

Q. Were you familiar with the services rendered by these various gentlemen whose names you have mentioned? A. I cannot say that I was. Generally speaking ——

Q. Was this information, to the effect that $31,000 was still to be paid, conveyed to you in writing? A. It was not.

Q. Who gave you the information? A. It was conveyed to this committee appointed in 1908.

Q. And who conveyed the information? A. Messrs. Davies, Stone & Auerbach, I believe, through Mr. Auerbach, conveyed the information that there was a balance due him for legal services.

Q. The entire amount was due him? A. No, sir; I just said the amounts were due, how they were due, he, for instance, representing his firm and his indebtedness; Mr. Cummings his; Mr. Cohen his; I presume they did it personally.

Q. Now, I understand correctly, don't I, that what you did concerning this $31,000 was to take into account what each of the associations had already paid, add to that the balance of

$31,000, and then divide the entire amount so paid and still due among the various racing associations in accordance with the number of racing days that each had? A. Not at all, sir ——

Q. Well, you and the committee? A. The committee informed me of the balance due; the accounts were variously reduced.

Q. Whose accounts were variously reduced? A. Each one of the accounts for legal services.

Q. You mean the amount they asked for was reduced? A. Exactly.

Q. That is, they asked for more than they got? A. Exactly.

Q. But it was finally reduced to $31,000? A. Exactly.

Q. Now, in apportioning that $31,000 among the various racing associations you took into account what they had already paid, did you not? A. They were certainly credited with that amount, to find out.

Q. And then you divided the balance among them in accordance with the number of racing days that each had? A. Exactly.

Q. Was this letter that you wrote to Mr. Reynolds, which I now show you, under date of September 26, 1908, the result of that apportionment? A. Yes, sir.

Q. How many of the racing associations participated in this expenditure of $31,000? A. As far as I recall, sir, all except the Westchester Racing Association and the Brighton Beach Racing Association; the Brighton Beach Racing Association did not.

Q. How many did that leave? A. The Queens County Jockey Club, the Metropolitan Jockey Club, the Brooklyn Jockey Club, the Coney Island Jockey Club, the Saratoga Association and the Empire City Racing Association.

Q. That is six? A. Yes, sir.

Q. Now, why didn't the Brighton Beach Racing Association share in this expenditure? A. I do not believe they are in a financial position to do it, sir.

Q. And how about the Westchester, why didn't they? A. They paid more than its proportion, and had a refund due.

Q. Had already paid more than its proportion? A. Yes, sir.

Q. So that in the entire expenditure throughout the year, including this $31,000, all of the racing associations participated with the exception of the Brighton Beach; that is true, isn't it? A. Yes, sir.

Q. That means that there were seven of the racing associations that contributed to the legal expenses? A. Exactly, sir.

Q. Now, you say in this letter to Mr. Reynolds, under date of September 26, 1908, that after reducing the legal accounts their proportionate amount was found to be $13,704.31. That would indicate, does it not, that all of the other six racing associations paid an equal amount? A. Or greater.

Q. Either that or greater? A. Yes, sir.

Q. You have no other records or memoranda, have you, Mr. Daingerfield, showing any legal expenses in 1908 outside of this ledger? A. And this personal disbursement of $31,000.

Q. You have a record of that? A. Yes, sir.

Q. In what form is that record? A. In the form of receipts, cancelled checks, and the check book.

Q. You will let me see those, will you? A. Certainly, sir; I will send for them now if you have a court officer.

Q. Oh, no, it is too late. Mr. Reynolds, the president of the Metropolitan Jockey Club, testified before this Committee that he made certain payments on account of legal expenses which I shall read to you one by one, Mr. Daingerfield, and I should like to have you look at your legal expense account in your ledger, and point out to me the entries of the receipt of those moneys. On August 3rd, 1907, in a check to F. R. Sturgis, $2,391.30? A. The dates in our ledger is September 6th, Metropolitan Jockey Club, cash book, 131, $2,391.30.

Q. December 2, 1907, $9,941.28, to F. R. Sturgis; have you a record of that? A. On December 9th, Metropolitan Jockey Club, folio 146, $9,941.28.

Q. Is that in legal expense account No. 3? A. Yes, sir.

Q. January 31, 1908, $2,586.04? A. Legal expense.

Q. That is what it says? A. What date again, please?

Q. January 31, 1908. A. I do not see it, sir, unless it is in this item, sundry associations, $5,243.25. The credit is account of the Press Bureau.

Q. Of what date? A. The date is May, sir.

Q. That cannot be that item. This item is January 31, 1908? A. Yes, sir.

Q. A check drawn to the Jockey Club, $2,586.04? A. I do not see any legal expenses.

Q. Under date of March 15th, 1909, the Jockey Club, $4,285,71. See if you can find that? A. I cannot. I presume that involves a proportion of the $40,000 about which Mr. Sturgis has testified.

Q. Well, still under the same date, March 15th, 1909, there is a check to F. K. Sturgis of $4,591.10. Do you find that? Here are the two checks (handing papers to the witness). Notice that one for $4,285.71 is endorsed by Mr. Sturgis for deposit in the Standard Trust Company special account. That evidently is the share of the Metropolitan of this $40,000? A. This check (indicating) is not drawn to the Jockey Club, sir.

Q. This is drawn to A. Daingerfield? A. Yes, sir. It appears in my personal account.

Q. $4,591.10? A. Yes, sir; drawn to me personally.

Q. To your order? A. Yes, and appears in my books, and this will appear in the statement of Mr. Sturgis in the Standard Trust Company, and not in any record in the Jockey Club.

Q. Is this $4,591.10 drawn to your order, a part of the $31,000? A. Yes, sir.

Q. For legal expenses in 1908? A. 1908.

Q. Now, you spoke of an account of a lawyer named Cummings. That was one of the accounts which went to make up this $31,000 balance. Do you know Mr. Cummings? He is a lawyer, I take it. Do you know where his office is? A. The firm is Webster & Cummings, sir. I do not know exactly where his office is.

Q. Are they lawyers in New York city? A. Yes.

Q. And have you a bill for their services? A. I really do not know.

Q. If I recall, I understood you to say that as far as the bills for the $31,000 were concerned, you never saw them? A. I never saw the detailed bills. I have a memorandum of the reduced amounts of the various bills.

Q. That will appear in this memorandum you spoke of as having? A. Yes, sir.

Q. Now, have you any record on the books of the Jockey Club of the number of racing days for each of these associations? A. No, sir. They are different each year.

Q. Well, take it in 1908. Have you any record of the number

of racing days that each of the associations had? A. Yes, sir, in the minutes of the Jockey Club.

Q. In the minute books? Will you make up a statement for me, please, of the number of racing days each association had in 1907 and 1908? A. Yes, sir. I think I can give it to you now.

Q. Can you do that? A. I think so.

Q. Very well. Will you do it, please? A. Queens County Jockey Club, twenty-two.

Q. You are talking of 1908? A. 1907, sir. There are the same. Queens County Jockey Club, twenty-two; Metropolitan Jockey Club, twenty-two; Westchester Racing Association, thirty; Brooklyn Jockey Club, thirty; Coney Island Jockey Club, thirty; Brighton Beach Racing Association, twenty-eight; Saratoga Racing Association, twenty-one; Empire City Racing Association, twenty-one. There is probably one or two days in each association difference in 1908.

Q. There is either one day less or one day more? A. Yes, sir.

Q. So that the Metropolitan Jockey Club was the association that had the least number of racing days; had twenty-two? A. The Metropolitan, the Queens County, the Saratoga and the Empire City have the same if consistent with the calendar.

Q. Which is about twenty-two? A. Yes, sir.

Q. I have had you give us, Mr. Daingerfield, the number of racing days, for the purpose of arriving, if possible, at the amounts paid by the other racing associations for legal expenses in 1908. From your letter of September 26th, 1908, it would appear that the Metropolitan Jockey Club, which had twenty-two days of racing in 1908, paid $13,704.31, as its share of legal expenses? A. Exactly sir.

Q. Now, take the Westchester. It had thirty, did it not? A. It did.

Q. How much did the Westchester, having thirty racing days, pay for legal expenses in 1908? A. They had a proportionate amount more.

Q. About one-third more? A. About $5,000 more; between $4,000 and $5,000 more.

Q. In other words the Westchester paid for legal expenses in 1908, in this particular apportionment, about $18,000? A. Granted, if that is correct, sir.

Q. And so with the others which had thirty racing days? A. Coney Island Jockey Club.

Q. Coney Island then paid likewise about $18,000? A. And the Brooklyn.

Q. And the Brooklyn paid likewise about $18,000? A. On that basis. I am not testifying what they did pay. I do not know of my own knowledge.

Q. I take it that this basis is a correct one? A. Probably correct.

Q. It is your own letter, Mr. Daingerfield, and I am taking your figures? A. I see it is my own letter; not my ledger. I presume the figures are correct.

Q. So that the Westchester and the Brooklyn and the Saratoga each paid ——

Judge Bruce: And the Coney Island.

By Mr. Kresel:

Q. Was it Coney Island or Saratoga? A. Coney Island.

Q. Each paid about $18,000? A. I cannot testify to that, sir. I do not know. I presume their books would show.

Judge Bruce: On that apportionment it would be $18,000.

By Mr. Kresel:

Q. On that apportionment it would be $18,000? A. Roughly, yes.

Q. And the Metropolitan and the Queens County? A. Paid practically the same on a *per diem* basis.

Q. That is, they would each pay how much; $13,000? A. If $13,000 is right for the Metropolitan, it would be for this.

Q. For these? A. If the Coney Island and this one has thirty racing days.

Q. And the Brighton Beach had twenty-eight days? A. Twenty-eight.

Q. That would make about $17,000? A. The Brighton Beach did not — yes, they did race in 1908. $20,000 — no, it would be less.

Q. $17,000? A. Yes.

Q. I said $17,000? A. Yes.

Q. Did the Jockey Club itself contribute any share of this $31,000? A. Not one item that does not appear on that book.

Q. It did not; and in addition to these amounts that we have arrived at on this calculation, taking that to be a correct calculation, there was this $40,000 contributed in 1908, was there not? A. Yes.

Q. And there was the $12,500 which was contributed? A. No. Not additional. That being refunded would be included in any estimate you have.

Q. That $12,500 was a part of the entire expenditure in 1908 which was afterwards refunded? A. You have the Jockey Club receipt for that.

Q. Now, was this the only apportionment of legal expenses that was made in 1908? I mean this one wherein the balance was found to be $31,000? A. The only one I have any knowledge of, sir.

Q. Do you know, Mr. Daingerfield, whether Mr. E. P. Coyne was engaged as attorney for the Jockey Club in 1908? A. I do not, sir.

Q. Or for any of the racing associations in that year? A. I have no specific knowledge on the subject.

Q. You mention his name as among those whose accounts still remain unsettled when you took up this $31,000 balance. That would indicate, would it not, that he had been employed by some of the associations in 1908? A. I have a general knowledge that he was, sir.

Q. You have a general knowledge that he was? A. General knowledge, I said.

Q. General. Have you any knowledge as to what services he performed? A. I saw Judge Coyne at Albany before the Legislative committees. I do not know specifically what services he performed.

Q. During 1908 you saw him in Albany? A. 1908.

Q. And when you say "before the committees" you mean in connection with the anti-racing bills? A. Yes.

Q. But as far as appears from the records of the Jockey Club there were no payments made to Mr. Coyne? A. None, sir.

Q. In 1908, that is right? A. Yes.

Q. You have no other business, Mr. Daingerfield, besides being the assistant secretary of the Jockey Club? A. I have not.

Q. You devote your entire time to the interests of the club? A. I do, sir.

Q. And you are fairly familiar with the affairs of the Jockey Club? A. Yes.

Q. Can you tell us what legislation was pending in 1907 in the State of New York affecting racing interests? A. I cannot specifically.

Q. Do you recall going to Albany during the session of 1907 and appearing before the Codes Committee? A. I do not.

Q. You did not, or you do not recall? A. I did not.

Q. But you were there in 1908? A. I was.

Q. I am prompted to ask these questions, Mr. Daingerfield, for the reason of these two bills which have been introduced in evidence, Exhibits 47 and 48, showing payments of $40,290 made to Mr. Coyne during 1907 for attendance before the session of the Legislature, attendance at the State Capitol, daily consultations with various members of the Legislature, and disbursements, and general services, attendance and counsel with reference to opposing diverse legislation. Does what I have read to you, and do these bills in any way refresh your recollection as to what legislation was pending in 1907 which the Jockey Club and the racing associations were opposing? A. I do not know. I know in a general manner there was a bill introduced by Senator Cassidy, I believe, and I know there was a bill before the Legislature in which, I believe, Mr. Jerome took some active interest. I do not recall the name of that bill, and I do not know whether it was the Cassidy bill or not.

Q. You are talking now of 1907? A. Well, I am confused as to 1907 and 1908. I do not know the names of the bills.

Q. But you think it was the Cassidy bill? A. Possibly.

Q. You are not sure whether it was 1907 or 1908? A. It was not 1908, but 1906 or 1907.

Q. 1906 or 1907? A. I do not know which or what was the name of the bill.

Q. What was the effect of this bill, whether in 1906 or 1907, in a general way? A. It was antagonistic to the best interests of racing.

Q. Yes. I take it that it was antagonistic. In what way? A. Well, that is a very broad question. I could answer for the next hour.

Q. Pardon me? A. It might take an hour to answer that question.

Q. Well now, let's just start off and see how long you will take? A. I do not know what the bill was.

Q. You do not know what the bill was? A. I do not.

Q. Perhaps I might refresh your recollection. Did it have anything to do with increasing the State tax that racing associations should pay to the treasurer of the State? A. I believe such a bill was before the Legislature.

Q. Either in 1906 or 1907? A. I believe. I do not know whether the bill was before the Legislature or not. It was discussed.

Q. It was discussed? A. Possibly. I do not know.

Q. You mean it was discussed before its introduction? A. Possibly. My knowledge of that would be through the newspapers.

Q. Simply what you read in the newspapers. Well, that is not what we would like to have. I am speaking now of your knowledge as the assistant secretary of this Jockey Club, interested in racing and racing associations. Have you any knowledge of any bill that was pending in the Legislature in 1906 or 1907 affecting racing interests for which these expenditures were made? A. I do not know what the bills were.

Q. But there were some bills? A. I believe there were.

Q. And your best recollection is that one of them was a bill fathered by Senator Cassidy? A. I believe it was.

Q. Can you tell us what that bill provided? A. I cannot.

Q. Do you know whether it had anything to do with the increase of the State tax to be levied upon racing associations? A. I do not.

Q. The State tax that has been levied right along is five per cent, is it not, on gross receipts, or net receipts? A. Gross receipts, it was.

Q. You know, don't you, that there has been an effort made in the past to raise that percentage? A. I have a general recollection that such a bill was introduced. I do not know whether or not.

Q. Can you tell us whether Mr. Coyne's services, for which he was paid this $40,290, related to an attempt on the part of the racing associations to oppose a bill raising the State tax that they were to pay? A. I know nothing about it.

Q. Now, Mr. Daingerfield, were you in Albany in 1908? A. Yes, sir.

Q. In opposition to the anti-race track bills? A. I hoped I was. I was more of the audience than anything else.

Q. You were there frequently? A. Twice.

Q. That is, at the time of the hearings? A. Yes, sir.

Q. The contest on those bills was limited to the Senate, was it not; practically no contest appeared to the anti-race track bills in the Assembly; is that correct? A. The time I was present, sir, it was at a hearing before the Senate Committee, sir.

Q. You recall they passed the Assembly, do you not, practically without opposition; and the whole opposition was centered in the Senate?

Chairman MERRITT: About seven votes.

Q. At least there were very few votes in opposition to the bills in the Assembly? A. I have forgotten, sir, the number of the majority.

Q. In the Assembly, you refer to? A. Yes, sir.

Q. You were there on the day of the large hearing; on what other occasions were you there? A. I was there on two hearings; I have forgotten the exact dates. May I refer to the ledger?

Q. No, I am not particular. Those were the only occasions you were there? A. Yes, sir.

Mr. KRESEL: Mr. Daingerfield, I shall look over some of these records, and I may have to recall you.

The WITNESS: All right, sir.

Mr. KRESEL: You will leave the minute books with me; I wan't to look at them; you can take the books of account. That is all. I call Mr. Evans.

JOHN J. EVANS, called and sworn as a witness, testified as follows:

Examination by Mr. KRESEL:

Q. Mr. Evans, where do you live? A. My office is 117 West 45th.

Q. 117 West? A. 45th.

Q. 45th street? A. Yes, sir.

Q. What is your business? A. Real estate.

Q. How long have you been in the real estate business? A. Off and on for ten years.

Q. Have you any other business? A. None.

Q. During the last ten years have you had any other business? A. No, sir.

Q. Are you a member of the Metropolitan Turf Association? A. Yes, sir.

Q. Were you at any time engaged in pool selling? A. No.

Q. Were you at any time a bookmaker? A. Well, thirteen years ago.

Q. How long have you been a member of the Metropolitan Turf Association? A. About eight years.

Q. While you have been a member of the Metropolitan Turf Association, have you been in any way connected with the business of racing? A. Well, I have been to the track pretty much every day.

Q. As a sightseer, or in business there? A. Well, as a sightseer, and speculator.

Q. In other words, you were a layer of odds? A. Layer and player.

Q. So that outside of your real estate ventures, you also had that business? A. If you call it a business, yes, sir.

Q. You would not call it a profession? A. Some do.

Q. Do you hold any office in the Metropolitan Turf Association? A. I am treasurer.

Q. How long have you been treasurer? A. I think it is four years, if I mistake not.

Q. Who was treasurer before you? A. Mr. Orlando Jones.

Q. You succeeded him? A. I succeeded him.

Q. And have been treasurer ever since? A. Yes, sir.

Q. This Metropolitan Turf Association is composed of men whose business it is to lay odds on horse races? A. Not exclusively.

Q. Not exclusively? By that you mean, just the way you are

engaged in the real estate business, outside of that? A. No, there are members there who never go to the track.

Q. The majority of them, however, are men that are engaged on the track? A. Yes, sir.

Q. How many members are there of the Metropolitan Turf Association? A. Well ——

Q. About? A. At the present time, about 150.

Q. And that number has been materially reduced since the passage of the Agnew-Hart bills? A. No; that is about our present membership.

Q. I know, it is your present membership. A. Yes.

Q. But since the passage of the anti-race track bills, you have lost a number of members? A. Yes.

Q. Quite a large number of members? A. Probably thirty or forty, something like that.

Q. So that your membership prior to the passing of the Agnew-Hart racing bill was about 200? A. Yes.

Q. Did those members pay regular dues? A. Yes, sir.

Q. About how much were the dues? A. $25 a year.

Q. As treasurer of the Metropolitan Turf Association, did you keep any bank accounts? A. Yes, sir.

Q. And where? A. In the Metropolitan — I mean the Mutual Bank.

Q. The Mutual Bank? A. Yes, sir.

Q. In this city? A. New York city.

Q. Where is that located? A. 33rd street and Broadway.

Q. Yes, what other? A. Sir?

Q. What other banks? A. Well, I think there is a small balance in the Lincoln Trust Company.

Q. This account in the Mutual Bank has been running for how long; ever since you have been treasurer? A. No, no, it has been running for about two years, I should judge.

Q. Before that time, where did you keep your main account? A. In the Lincoln Trust Company. We moved our account when we moved uptown.

Q. While you have been treasurer have there been any other bank accounts of the Metropolitan Turf Association, or of yourself as treasurer of that association, in any other bank but the

Lincoln Trust Company, and the Mutual Bank? A. Not that I can remember.

Q. You would remember if there were other accounts? A. I should judge so.

Q. Mr. Tim Sullivan is the secretary of your association; isn't he? A. Yes, sir.

Q. And he has been secretary for how long? A. Well, I guess ever since the association started.

Q. And that is how long? A. I guess that must be twelve years, or maybe a year more; I don't know. I could not tell exactly.

Q. You have a club house on 45th street? A. Yes, sir.

Q. You go there frequently? A. Every day.

Q. Have you seen Mr. Sullivan there lately? A. Mr. Sullivan was there about six weeks ago, and was then a very sick man. He is a very old man; and he told me then he was going south for his health.

Q. You have not seen him in six weeks? A. I have not seen him in six weeks.

Q. Have you had any communication with him? A. No, sir.

Q. Do you know where he is now? A. I do not.

Q Do you know whether he did go south? A. I do not.

Q. Do you know where he lives in this city? A. No, sir.

Q. Does he live in this city? A. No, sir.

Q. Where does he live? A. In Brooklyn.

Q. Do you know where in Brooklyn? A. No, sir.

Q. Now, you have been subpoenaed, Mr. Evans, to produce the books of account of the Metropolitan Turf Association, have you not? A. Yes, sir.

Q. Have you your subpoena with you? A. Yes, sir.

Q. Will you show it to me please? A. (Witness produces paper and hands it to counsel.)

Q. Is this the subpoena that was served upon you? A. Yes, sir.

Mr. KRESEL: I offer it in evidence.

(Paper received and marked Exhibit No. 49.)

Q. You were subpoenaed to produce the books of account of the Metropolitan Turf Association, containing the entries of all

receipts and disbursements of the association, between January 1st, 1908, and January 1st, 1910; the minute books of the Metropolitan Turf Association; and the minute books of the executive committee of the Metropolitan Turf Association, covering the period between Jauary 1st, 1908, and January 1st, 1910; that right? A. Yes, sir.

Q. Have you produced those books? A. We have no books.

Q. Have you produced any books? A. I have no book at all.

Q. And the reason you say that you have not produced them is because you have none? A. We don't keep them. I never kept books.

Q. Have you got any books of the Metropolitan Turf Association, either books of account or minute books? A. No, sir.

Q. Did you ever have? A. No, sir.

Q. All the time you have been treasurer of the Metropolitan Turf Association you never kept any books? A. I never kept any books.

Q. Did anybody keep them for you? A. There were some books kept when I first became treasurer; but then they changed it to a card system. There was absolutely no accounts to be kept.

Q. Now, wait a minute; don't let's us go into that. There were some books kept when you first became treasurer? A. Yes, sir.

Q. Mr. Orlando Jones, when he ceased to be treasurer, handed over the treasurer's books to you, didn't he? A. Yes, sir.

Q. And how long after you became treasurer did you continue keeping those books? A. Well, I couldn't just tell you how long.

Q. Well, about how long? A. I suppose a year or so.

Q. A year or so? A. Something like that.

Q. And did you personally keep them? A. No.

Q I mean, did you make entries in the books? A. No, I had another man to do that for me.

Q. An assistant? A. Yes, sir.

Q. Who was he? A. At that time it was — what was his name — it is two years ago — a fellow by the name of, I think it was — I used to call him Charley. Charley White, I think it was.

Q. Charley White? A. I think I used to call him Charley; I forget his last name.

Q. He was with you up to two years ago? A. Yes.

Q. And kept those books for you up to two years ago? A. Yes.

Q. And what books did he keep for you; cash book? A. No, all we kept ——

Q. Not what we kept, Mr. Evans, just answer my questions. A. Yes, sir.

Q. Did he keep a cash book for you? A. He kept an assessment book.

Q. An assessment book and a ledger? A. No, he kept an assessment book and a due book.

Q. The dues book, and the assessment book? A. That is all; that is all we have.

Q. Two books he kept for you? A. Yes, the due book and the assessment book.

Q. Were they large books? A. Small; about this size (witness indicates about 12 inches).

Q. Small memorandum books? A. A small memorandum book; that is what you would call it; yes.

Q. And about two years you discontinued keeping those books? A. Yes.

Q. And you adopted a card system? A. A card system.

Q. And of course you have those cards now? A. I haven't those cards.

Q. You haven't those cards? A. No.

Q. How long did you continue keeping cards? A. The cards to the present time.

Q. You have them? A. I haven't them.

Q. When did you destroy them? A. I didn't destroy them.

Q. What has become of them? A. Mr. Sullivan has got them, as he is going to establish the same thing.

Q. Then, as we understand it, the reason you did not produce the books, any books, is because Mr. Sullivan has them; is that it? A. If you call a card system a book, that is right.

Q. Has he those two memorandum books? A. No, I don't know what became of them.

Q. What did become of them? A. I don't know.

Q. You are the treasurer, and they were your books? A. I couldn't tell you what become of them; probably they were destroyed.

Q. What became of the accounts entered in them; were they transferred into the card system? A. No, no. Well, if anybody owed anything, yes, they were transferred over.

Q. And you have no idea what became of those two books? A. No.

Q. When did you last see them? A. Well, when we established the card system, whenever that was.

Q. That was about two years ago? A. About two years ago.

Q. Some time in the summer of 1908, was it? A. Yes, I believe so, or the spring.

Q. It was after the passing of the Agnew-Hart racing bills, wasn't it? A. No.

Q. Are you sure about that? A. I say about two years.

Q. That would make it about two years ago; wasn't it after the passing of the anti-racing bills? A. No; we hold our meeting in November, and it was right after the meeting was, that would be the meeting of November, 1907.

Q. Well, that is three years ago then? A. Then it would be three years.

Q. Now, are you sure it was November, 1907, or November, 1908; are you so positive about that that you can swear to it? A. I am not positive that I could swear to it; no, I could not.

Q. You said it was about two years ago; that would make it about November, 1908. A. That was my best recollection.

Q. That is all I want to know. You cannot tell any more than what you recollect. So that I was correct, wasn't I? A. Yes.

Q. That subsequent to the passing of the Agnew-Hart racing bills you destroyed these books? A. I didn't destroy them.

Q. I meant, you changed the system to a card system? A. Changed the system.

Q. And the books disappeared? A. I don't know what became of the books.

Q. Well, they disappeared? A. Yes.

Q. Now, those two books were a dues book and an assessment book? A. Yes.

Q. In the dues book, I take it, were entered the receipt of dues from members, $25 apiece each year? A. Yes.

Q. Is there anything else in that book? A. No.

Q. What does the assessment book contain? A. An assessment of $25 for each member, for each death of a member.

Q. Each death? A. Yes.

Q. That is, you paid an endowment? A. We paid a gratuity, a gratuity assessment.

Q. A gratuity to the widow of the member that died? A. Yes, sir.

Q. That was in the assessment book? A. In the assessment book.

Q. What else was in the assessment book? A. Nothing else.

Q. Were there any other assessments ever levied by the Metropolitan Turf Association besides assessments to make up a purse for a widow? A. Not that I know of.

Q. You are not only the treasurer, but also a member of the executive committee? A. Yes, sir.

Q. And you have been a member of the executive committee ever since you have been treasurer? A. Yes, sir.

Q. And whn Mr. Jones was treasurer he was a member of the executive committee? A. Yes, sir.

Q. And the executive committee of the Metropolitan Turf Association is the governing committee, is it not? A. Yes, sir.

Q. It consists of the chairman, secretary, treasurer, and two other members? A. Yes, sir.

Q. Besides yourself, there is now on that committee Mr. Burke, who is the chairman? A. Yes, sir.

Q. Mr. Tim Sullivan, who is the secretary? A. Yes, sir.

Q. And who are the two other members? A. Mr. Heany and Mr. Gideon.

Q. What is Mr. Heany's first name? A. Charles.

Q. And what is his business? A. I think he is in the art business, if I am not mistaken

Q. What? A. Art business.

Q. Where is his place of business? A. I could not tell you.

Q. Where does he live? A. I could not tell you that.

Q. What sort of art is he in? A. Art, pictures.

Q. Where do you meet him? A. At the club, whenever he comes there.

Q. When you write to him, where do you address him? A. I don't write to him at all.

Q. Does he come to the club every day? A. Oh, no.

Q. Does your executive committee hold stated meetings? A. No, sir.

Q. How often does it meet? A. Well, it has no particular time to meet.

Q. Who calls a meeting? A. The chairman.

Q. When did you have your last meeting? A. Oh, I can't remember.

Q. So long ago? A. Yes.

Q. Six months ago? A. Over that.

Q. A year? A. Over that.

Q. A year and a half? A. No, it is a year ago last November we met. I can recall it now. We met prior to our annual meeting, that is the last meeting.

Q. That is, in November, 1908? A. 1909.

Q. November, 1909? A. 1909.

Q. Now, Mr. Evans, I don't mean annual, formal meetings of the executive committee. You certainly do not want to be understood as saying, testifying here, that the business of the Metropolitan Turf Association has gone on since November, 1909, without any meeting of the executive committee whatsoever. A. There was nothing to meet for.

Q. This clubhouse of yours is located at what number? A. 117 West 45th street.

Q. You occupy the whole building? A. Yes, sir.

Q. Quite a large building? A. Yes, sir.

Q. And you have a membership committee? A. Yes.

Q. To whom proposals are made of new members? A. Yes, sir.

Q. That committee meets, doesn't it, regularly? A. Well, no, they don't. If a name is proposed there, why one takes it around to the other, if they happen to come in, and gets him to endorse it; and that's all there is to it.

Q. And likewise, the members of the executive committee,

when anything is to be brought up before the executive committee, you and the chairman and the secretary, who are usually around the clubhouse, settle the matter, don't you, whether you call a formal meeting, or do not? A. Yes, if there is any business to be done.

Q. And, of course, there has been such business in a year; you do not mean to say you haven't had anything to do in the course of a year? A. The only thing we have had to do is in regard to members dying.

Q. Yes, I know you are very solicitous about that. Now, there were no other assessments ever levied by the executive committee besides these assessments to pay a widow a certain fund? A. Not to my knowledge.

Q. I don't want to confine you, Mr. Evans, to the word assessment; contribution, or request for money; were there any such contributions or request for money on members made by the executive committee, outside of the regular dues? A. No, not that I know of.

Q. Excepting for the widow's purse? A. That is all.

Q. When the anti-racing bills were pending in 1908, you gentlemen of the Metropolitan Turf Association were extremely interested in that legislation, weren't you? A. Naturally so.

Q. It meant, as far as business was concerned, life or death to you, didn't it? A. Well ——

Q. You were practically out of business, weren't you? A. We are alive yet.

Q. You are practically out of business, aren't you? A. Well, practically.

Q. And what did you gentleman of the Metropolitan Turf Association do to present your views about this legislation to the Legislature? A. Kept quiet.

Q. Did you hire any lawyers? A. Not for the legislation.

Q. For what purpose did you hire lawyers in connection with these bills? A. To aid our members who were persecuted after the passing of the bill.

Q. I am particularly addressing myself to what you did before the passing of the bills.

Q. Did you employ lawyers to present your views to the committees of the Legislature? A. No, sir.

Q. And if any such lawyer had been employed you, as a member of the executive committee, would know it? A. I certainly would.

Q. But after the passage of the bills you did employ lawyers to defend members who were being persecuted? A. Yes, sir.

Q. Persecuted in what way? A. They were arrested there for practically nothing, for being on the track.

Q. They did nothing? A. I don't know what the charges are. The charges are two years old and they are there yet.

Q. The charges were some violation of law, I take it? A. I presume so.

Q. And that is what you call being persecuted? A. Yes, sir.

Q. To defray the expense of these lawyers you levied an assessment on your members? A. No, sir.

Q. Paid it out of your treasury? A. Yes, sir.

Q. About how much did you pay out to lawyers in 1908? A. On the 16th day of June I paid $12,500 to retain several lawyers.

Q. June, 1908? A. June 16, 1909.

Q. Was that before or after the passing of the anti-race track bills? A. After the passage of the anti-racing bills.

Q. Do you remember when they were passed? A. The 11th of June, 1909, I believe.

Q. And did you pay that money by check? A. Yes, sir.

Q. To whose order was it drawn? A. Davies, Stone & Auerbach. It was to go to Davies, Stone & Auerbach and Lindsay, Nicoll & Anable.

Q. By the way, on what bank was that check drawn? A. The Mutual.

Q. On the Mutual Bank? A. Yes, sir.

Q. Is the account there in the name of the association or your name? A. In the name of the association.

Q. The same is true of the Lincoln Trust? A. Yes, sir.

Q. Besides this $12,500 what other payments did you make to lawyers in 1908? A. Made payments of some hundred and odd dollars to Mr. McDermott for one case and a hundred and some odd dollars to the same man for another case, and a few small amounts, $25 or $50 for drawing up papers in regard to death releases and such like.

Q. You have refreshed your recollection before coming here as to these various payments? A. Oh, yes, I looked up the book.

Q. And from what records? A. What?

Q. From what records? A. From the check book.

Q. From your check book? A. Yes, sir.

Q. Then you have your check book? A. Oh, yes.

Q. That is something. Now, have you your check books running back to the 1st of January, 1908? A. No; May. I got a new check book printed, it was a different check entirely, when I went to the Mutual Bank, and that was — I looked at it yesterday, and it is from May 8th.

Q. May 8th? A. Yes, that is the first entry in it.

Q. You have a check book containing stubs of checks that you drew as treasurer? A. Yes, sir.

Q. Beginning with May 8th? A. Yes, sir.

Q. And to date? A. Up to date.

Q. That is a new book that you speak of that you got at that time? A. A new book that we had printed.

Q. That you had printed at that time? A. We wanted a different check; I didn't like the other check.

Q. You wanted a different form of check? A. Yes, sir.

Q. And you have the stub book preceding that? A. I don't know whether I have or not.

Q. You would not be likely to destroy your stub checks, would you, your check stubs? A. They are of no use.

Q. Don't let us argue about it. A. They are no use.

Q. Do you recall destroying your check stubs prior to May 8th? A. No, I do not.

Q. Then of course they are around somewheres? A. Probably.

Q. Will you please institute a search for that stub book; will you? A. Certainly.

Q. Of course you understood by books of account, you understood that check book is a book of account? A. No, I did not; I thought that was a personal book.

Q. And that is the reason you did not produce it? A. That is the only reason, yes, sir.

Q. Now, besides your check book you have some other memorandum from which appears these particulars that you have given

us concerning the bills which you paid, haven't you? A. Well, no. We make a memorandum and it runs a month, and then at the end of the month, why we draw what money we want and pay the bills, and that is all there is to it.

Q. That is, you keep a monthly memorandum of expenditures? A. Yes, sir.

Q. And receipts? A. Yes, sir.

Q. And those are kept in what form? A. Upon a piece of foolscap paper; they are very small.

Q. Do you keep that yourself? A. No; the steward up at the club keeps it, he just checks it down.

Q. You don't mean that he keeps an account of the drinks that he hands out to the various members; is that what you mean? A. Yes, of that; we have no other expenses.

Q. You mean when a member comes in and orders a cocktail the steward writes it down and gives it to you at the end of the month? A. Yes, sir.

Q. And then you enter it on these cards? A. We enter the total of what he has, what he owes.

Q. What the steward owes? A. No, what the individual member owes.

Q. How about other expenditures, I am not talking about charges to members; I mean other expenditures that you make for the club as a club; where did you keep that account? A. We keep that account in our check book.

Q. Only in the check book? A. That is all.

Q. And where do you keep account of receipts? A. The secretary keeps that account; I do not keep any account of receipts at all.

Q. The secretary takes charge of the receipt of moneys? A. All receipts of money; he takes the money.

Q. What do you do as treasurer? A. Then he turns the money back to me, and I charge it in as a whole, as a lump, as a lump sum.

Q. And the secretary keeps books of receipts? A. I keep a book of whatever money I receive.

Q. And those books you have? A. I say I keep a memorandum of that; whatever money I receive I deposit it and that is all. If

I receive $200 from the treasurer I deposit it as $200, or $150, or whatever it is.

Q. And the only entry is the entry in your pass book? A. Yes.

Q. That is all? A. Yes.

Q. And you have got your pass book? A. Yes, sir.

Q. For both accounts? A. Yes, sir.

Q. And they run way back beyond May 8th, don't they, the pass books? A. I don't know how far the pass books run back.

Q. Will you produce those, please? A. I will.

Q. Are your dues now $25 a year? A. Yes, sir.

Q. Were they increased lately? A. No, sir.

Q. Have they been that for a number of years? A. Yes, sir.

Q. Were they the same prior to 1908? A. Yes, sir.

Q. Were they ever less than $25? A. No, sir.

Q. To your knowledge? A. No, sir, not to my knowledge.

Q. And can you tell us now, do you not, that outside of the dues and the assessment of $25 upon each member whenever a death occurred among your members —— A. Yes, sir.

Q. Those two are the only two sources of income that your association had? A. That is all.

Q. Or has had since you have been treasurer? A. Oh, no. We derive money from our investments.

Q. What investments? A. Oh, we have money invested.

Q. You mean your surplus income you invest? A. Yes.

Q. How much of a surplus investment have you? A. Well, that is rather a personal question.

Q. No, I am not asking about your personal investments? A. I know.

Q. I am talking about your association's investments? A. The association has considerable money.

Q. I take it that it has? A. Yes, sir.

Q. I am trying to get an idea of about how much it does have? A. It is a question in my mind whether that is a proper question to ask, or to answer.

Mr. KRESEL: I submit it to the Committee.

Chairman MERRITT: I don't see what harm there can be to answer.

The WITNESS: If you think it is all right, I will answer it.

Chairman MERRITT: I should think so.

A. We have got over $150,000.

Q. And you have an income from that? A. Yes, sir.

Q. You also have an income from whatever profit you make in serving meals or drinks to your members? A. For cards and whatever little things they have around a club house you know; you know what it is in clubs.

Q. What do you mean by cards? A. Playing cards.

Q. Card playing? A. Card playing, yes.

Q. Now, outside of these sources that you have mentioned, have you any source of income? A. No, sir.

Q. And you have not had since you have been treasurer? A. Not that I know of.

Q. You have charge of those investments? A. Yes, sir.

Q. You have had since you have been treasurer? A. Yes, sir.

Q. In what book do you keep track of your investments? A. A little bit of a book.

Q. A little bit of a memorandum book? A. Yes, a little bit of a memorandum book.

Q. And you have been keeping track of that in that memorandum book for about how long? A. All the time.

Q. Ever since you have been treasurer? A. Yes; whenever I changed them; they are invested securities.

Q. No, I do not mean whether you have changed your securities; have you changed the little memorandum book; or is it the only one that you have ever had? A. It is the only one I ever had; a little memorandum book with a list of what we have got.

Q. Since you have been treasurer? A. Yes, sir.

Q. And it contains what your investments are? A. Yes, sir.

Q. Contains receipts of income? A. No; it just merely contains a list of what we have got.

Q. That is not what I asked you. A. What is it?

Q. I asked you in what book you keep track of the income of your investments and the disbursements that you make in connection with those investments? A. I do not keep any track of that only in my pass book; as I receive the interest why, I deposit it in the bank, that is all.

Q. These cards that you speak of do not contain entries of income from your investments, do they? A. No, sir.

Q. The check book does not contain that, does it? A. No; the pass book.

Q. Does the check book? A. No, sir.

Q. The pass book does not say that a deposit is income from an investment, does it? A. No.

Q. Then, where is your record of the income from your investments? A. We have no record at all of it. We just state that we get so much interest from a bond.

Q. Just one more question, I think, before we take an adjournment. Does your club own the building that you are in? A. No, sir.

Q. Do you rent it? A. Yes, sir.

Q. If it is not too personal, in your opinion, can I inquire how much rent you pay? A. Yes, sir.

Q. How much? A. $ 000 a year.

Q. These cards that you spoke of having the entries of your dealings with your members, you have those? A. No, I have not. Mr. Sullivan has them.

Q. Mr. Sullivan took them away with him? A. He took them, to establish the same system himself.

Q. Took them where? A. Over to his home; wherever he took them I don't know.

Q. When did he take them away? A. I don't know. About six weeks ago. The last time he was at the club house.

Mr. KRESEL: Mr. Chairman, will you direct the witness to be here next Wednesday morning at 10 o'clock.

Q. In the meantime, Mr. Evans, will you let me see such check books as you have? A. Yes, sir.

Q. Will you produce them down to my office on Tuesday? A. Where is your office?

Q. 55 Liberty street. A. 55 Liberty street; yes, sir, I will.

Chairman MERRITT: The Committee will stand adjourned until Tuesday morning, December 6th, at 10 o'clock, in this room.

Adjourned to Tuesday, December 6th, 1910, at 10 A. M.

TWENTY-FIFTH PUBLIC SESSION OF THE LEGISLATIVE INVESTIGATING COMMITTEE.

ALDERMANIC CHAMBER, CITY HALL.

NEW YORK, *December* 6th, 1910 — 10 A. M.

Present — HON. EDWIN A. MERRITT, JR., *Chairman.*
HON. ALEXANDER BROUGH, *Vice-Chairman.*
HON. ROBERT F. WAGNER.
HON. WILLIAM W. COLNE.
HON. FRANK L. YOUNG.
HON. VICTOR M. ALLEN.
HON. JAMES A. FOLEY.

HON. M. LINN BRUCE, *Counsel.*
ALFRED HURRELL, ESQ., *Assistant Counsel.*

Chairman MERRITT: The Committee will come to order.

Mr. Hurrell, are you going to ask Mr. Robb any questions along the line that we talked of last night?

Mr. HURRELL: I am going to ask him, although I think some other witness will probably be better prepared than he will.

WILLIS O. ROBB, recalled, further testified as follows:

By Mr. HURRELL:

Q. Mr. Robb, are you familiar with the way rates are made in foreign countries? A. No, I am not.

Q. Do you know anything about it at all? A. Oh, I know a few things, as that in the States of the German Empire insurance on buildings is under State control; is really State insurance; that the incorporated companies, not State bodies, are limited in most of those States to the insurance of personal property. I

know that in England the rates are made by the so-called tariff companies, and that there are nearly as many non-tariff as tariff companies. Whether the non-tariff companies have any agreement upon rates, or simply use the rates of the other companies to guide them in a general way, I do not know.

Q. You mean it is your understanding that there are tariff companies, meaning companies akin to the companies that belong to the New York Exchange, that use a common rate? A. Yes; the larger companies, very much the larger companies in strength, though I think not necessarily the most numerous companies.

Q. Do you know how the general average of the rates compare with the older countries and this country? A. Approximately as the loss ratio does.

Q. Then your answer would be that the rates abroad are very much lower than they are here? A. The rates abroad are very much lower, but fire waste per thousand dollars at risk is very much lower in foreign countries; one-fifth what it is here.

Q. Would you say that the favorable experience abroad was due entirely to their methods of construction? A. Not wholly, but largely. I would like to say a word on that general subject independent of your special question. That is this: That the most striking phenomenon in the history of fire insurance in this country is that during the 35 years since slow-burning construction, automatic sprinklers and other scientific devices for reducing the fire waste first came into use, and although in that time there has been an immense improvement in the development of such appliances in the laws governing buildings, and fire marshals' operations, in the average construction the loss per thousand dollars, or per hundred dollars of value at risk has remained substantially stationery.

The reason why, in spite of the improved laws and construction, and methods of fire protection and equipment, the ratio of loss to property value has not depreciated, is not a single reason. Construction has much to do with it, but in that time there have been developed a great many new hazards, and old hazards that were insignificant have been given a very much wider area of operations. The hazards of electricity, of all the products of kerosene oil, of chemical processes introduced into manufacture, contribute to off-

set the efforts of underwriters and fire engineers and the public officials to keep down the fire waste. So does the growing congestion of business. That is true not only in the cities, as in the case of a city like New York, that has had perhaps an average of three stories added to the height of its typical building in that time, with the corresponding increase in the number of tenants and hazards within four walls, but within that same period, great areas in this country have been made over from rural or suburban or sparsely settled territory into congested and manufacturing or mercantile areas, and communities with the necessary increase of the fire waste. Mainly, construction lies back of the great fire waste, but it has been aided by some conditions that were inevitable in a new and growing country. Construction itself is inferior, probably because of our rapid growth. I think that our underwriters and the statisticians feel that the showing of the last three or four years since the San Francisso conflagration indicates that an improvement of building and equipment methods, and of fire insurance rating results of the laws, municipal and State, dealing with such things, have combined to aid the fire waste to show a slight, but apparently permanent reduction. That is the feeling of underwriters now; that the fire waste per thousand or hundred dollars of property value has begun to show what we may reasonably hope is a permanent decline; very slight, but visible.

Q. Do you know the comparative value of the fire departments in this country, and the fire departments abroad? A. Oh, their equipment and efficiency are vastly greater in this country than abroad.

Q. Well, would not the greater efficiency of our fire departments have a great deal to do towards the keeping the balance rather the same; that is to say, the older countries have a superior construction which tends to reduce the fire waste, and this country has superior fire departments which also tends to reduce the fire waste. Do you think one offsets the other? A. Oh, the record is clear that the fire waste proportionate to property value is many times greater in this country, taken as a whole, than in any European country; greater even than in Russia, though not many times greater than there.

Q. You would say then that the fire departments here do not

offset the advantages of superior building abroad? A. They do not.

Q. Is there any other factor that you know of which enters into the slight fire waste abroad, beyond construction? A. Yes. Very much more rigid municipal and State laws. May I tell you a story?

Q. Yes. A. A friend of mine, with whom I settled a loss years ago, said he had just come back from a visit to his old home in Copenhagen, Denmark, which he had left when very young, and had been raised and done business in this country during his early manhood. He stayed with his brother. One evening his sister-in-law preparing to retire, stooped with a small spirit lamp to pick up from the floor an ornament she had dropped, and the loose top or burner of the lamp accidentally fell off and set fire to the window curtains near her dresser. Her cries brought her brother-in-law and guest into the room, and between them they promptly extinguished the flames, but not until they had been seen from outside, and by the time the fire was out, a police officer and a fire department officer were at the front door. They came in, took notes of the story of the two witnesses, summoned the lady to the police court for the next morning, and they fined her there fifty dollars for carelessness. What the wife of a free American citizen would have said if that had been done to her, you can all judge for yourselves.

Q. That, of course, illustrates that the penal statutes abroad have a great deal to with the reduction of the fire waste, in that they do tend to make people careful? A. That is a statute, and the statutory liability imposed on the householder for damage caused by a fire originating in his premises, and extending to the property of his neighbor — both kinds of loss, have tended to reduce the fire waste greatly.

Q. Have you clearly in mind what you might recommend to the Legislature, for instance, in the way of legislation directly aimed at reduction of the fire waste? A. I think that considerably greater stringency in the matter of building laws, which, unfortunately, are not for the most part under State control, is still to be sought. Every time a municipal government tries to extend the fire limits in a city or small town, so that thereafter

no new frame buildings can be erected in those limits, a very powerful protest is put up by the liberty-loving citizens of the vicinage, and it is very difficult to carry through such legislation. I think so far as the State is concerned, that the appointment of a fire marshal with definitely outlined duties, and the establishment of a series of what would substantially be inquests after the occurrence of every fire, would do much to reduce the fire waste. But to a large extent, it is a matter of educating public sentiment. Most of the citizens of New York still believe that it is a matter wholly between a man who has burned out and his insurance company — the fact that he has had a fire, and the amount of loss thereby, and that the community is little, if at all, interested.

In this State a man was convicted of a grossly fraudulent claim for loss, sentenced to the State prison, served his sentence, — no, was pardoned out, within a year after he had begun to serve his sentence by the then Governor of the State, and promptly brought his suit on his policies, which, if his conviction were justified, had been voided altogether, and although the companies defended successfully that suit, it cost them the face of their policies to do so. He was aided by a firm of the most distinguished lawyers in the city, and he had a large measure of public sympathy throughout that suit.

Q. Would you go as far as to recommend penal statutes for carelessness to parties, causing a loss? A. I think a fine prescribed by law, and a graded, and at need, severe fine for any carelessness which probably caused a fire, would be a reasonably wholesome public statute.

By the Chairman:

Q. How about the liability to other adjoining and adjacent owners for damage due to conflagrations originating alongside their property, and on the property of some particular person? A. The usefulness of those statutes I am not quite clear about, for the reason that insurance companies in foreign States where such regulations obtain have been allowed to insure against that liability, as well as against direct fire loss. Insurance brings up all over the world wherever there is any new kind of loss imposed by contract or statute, or construction.

Q. That would be making another hazard which could be insured? A. Precisely.

Q. Well, the thing I had in mind in asking Mr. Hurrell to ask you some of these questions was that, taking your position as being one to the effect that the rate directly reflects the percentage of fire loss, any sort of legislation which would directly tend to diminish that loss must commend itself to the common sense of everybody; and whether our statutes now are as clear and definite on that subject, as they might or ought to be, is questionable. I think the people of the State, taxpayers, particularly property owners, would not object to the enactment of any statute which plainly and clearly was in that direction, because they would expect a commensurate reduction. There might be lots of opposition to begin with, but that brings a discussion, and ultimately the thing that ought to be done has got to be done. There is not any getting away from that. There is but one measure — the shortest distance between two points. I would like to have in the record any recommendations that may occur to you now, or before we dispose of this phase of the investigation. You might not be prepared off-hand, but if, at some later time, after mature deliberation, you cared to, we would be glad to have your suggestions? A. I want to say upon that subject that the great difficulty has been that the attitude of Legislatures throughout the country has quite ignored the necessary effect of their own statutes upon the fire waste. They have been indifferent to the fact that the valued policy law would necessarily increase the fire waste, because they thought they were thereby correcting some existing chances of injustice between an individual company and an individual claimant. They have in many years passed statutes which are made necessarily of this advantage to insurance companies and which have incidentally the inevitable result of increasing the fire loss. One reason for that is this: They have not considered the different measure of good that can be done by attacking the fire loss, as compared to what can be accomplished by attacking, say, a single defect, like the expense ratio of the insurance companies.

Assume $100,000,000 of premium income. Assume that five per cent of that is profits; five per cent is added to the reserve for conflagration losses, and 40 per cent is used up in expenses. I

purposely state a high, and perhaps only a local, expense ratio. That means that there remains $50,000,000 of fire loss that can be paid out of that premium fund. Suppose that fire loss, that fire waste, is reduced ten per cent; that is $5,000,000. Incidentally, the premium income necessary to take care of it is reduced $10,000,000. Now of that $10,000,000 reduction half is a reduction in the expense and profit and reserve accounts in the collection of unnecessary premiums, but the other half is the absolute stopping of an irrecoverable fire loss. That $5,000,000 is absolutely saved to the entire community. If, instead of doing that, and without touching the volume of fire waste, an attempt was made to reduce the 40 per cent expense ratio to 36 per cent, we have then this simple mathematical problem: What is that amount of premium income which, less 5 per cent, and 5 per cent, and 36 per cent or 46 per cent, will pay for $50,000,000 of losses? The sum of which $50,000,000 is 54 per cent is about $12,600,000. To reduce that expense ratio is to reduce by 7.4 millions of dollars the amount necessary to be collected and distributed to pay those losses; but it does not reduce the permanent final loss of the community one cent. It prevents the unnecessary collection and redistribution substantially altogether in the same community so that it no longer needs to be assessed, collected and paid out, but it does not help the wealth of the community at all. Now, how much better if but one of the two things could be done; it would be to make a $10,000,000 saving, of which one-half is absolute and outright, and the other half is a reduction in unnecessary collection, than to make a 7.4 million dollar saving, all of which is merely a reduction in the collection and distribution of money in the community. That expense ratio will never be greatly reduced, and one reason is this: A very considerable part of it is not underwriting expense at all but fire protection expense, which if the companies do not assume the public must, the State must, and the same citizens who now pay it as part of their insurance premium will pay it as part of their taxes. You heard Mr. Babb on the stand a few days ago. Now, he is the paid manager of the United States branch of an English company, but he and many another man like him has given for years a large part of his time to national board work and other work that has not

anything to do at all with the measurement of the fire hazard or the conduct of his company's business, but deals wholly with the reduction of the fire waste; all that comes out of the expense account, the maintenance of the fire patrol service, at the expense of insurance companies instead of at the expense of the State, as it should be maintained along with the fire department, and gets into our expense ratio. In these and other ways we are doing under the guise of fire insurance expense payments a work that has not anything to do with insurance. You all know that many a man takes a boiler insurance company's policy solely for the inspection value he gets out of it; that they pay eight or ten times as much money in expenses as they do in losses; that the factory mutual insurance companies also pay very much more in expense than they do in losses. Now, the same is true in a measure of all companies. The money that is paid for fire insurance premiums buys a lot besides indemnity; and especially it buys a greatly improved system of protection and of progress in the reduction of fire waste. You can transfer it to the State if you choose, but the same people will pay it under a different name.

By Judge Bruce:

Q. What percentage does that expense represent to a department which has to do with the protection of fire and the reduction of fire waste? A. No man knows or can find out, but it is much larger than would ordinarily be supposed; takes a larger part of the time, the time of a larger number of employes and officers is given to that branch of work, and it does not show anywhere in the expense account. Mr. Babb's time, for example, is paid for by a salary, and his management expenses, and so with many an inspector and surveyor or public agent. It is charged up to the adjustment of losses or the extension of business, but in great part it is devoted to instructing agents and property owners as to the improvement of the fire hazard that they deal with. It cannot be accurately segregated in any company's statement.

Q. In this statement which you have made, doesn't it arise from the fact that a ratio of expense of forty per cent of all the premiums received, doesn't that seem extraordinary? A. It does

to the layman seem extraordinary, and I am explaining why it is necessarily very large.

Q. That is, out of $100,000,000 of premiums collected there is only a little less, according to Mr. Brown's statement, than sixty per cent devoted to the payment of fire losses; the rest is used up in expense? A. Yes; giving expense the broad scope I have been giving it.

By Chairman Merritt:

Q. Is there any way by which an insured person or company, by payment of an additional fee of any sort, can get stated inspection of their property? I have had that in mind with reference to some matters starting with something that you just referred to. Boiler inspection — nobody that I ever knew of takes boiler insurance with the expectation of having a loss paid, they take it because they know these men to be specially skilled and they can rely on their reports, and if they report a boiler in bad condition there is not anybody so anxious to get rid of it as the man who owns it. He has got to have a new one or he has got to have such repairs made as the inspector and his own engineer decide must be done immediately; and I never knew anybody who took a boiler insurance policy with the idea of ever going to pay for them by a loss; they are very glad to have it for the inspection itself. Now, I have wondered, I meant to ask you about it,— I never asked the local agent, but speaking from a personal standpoint I would be glad, so far as I have any interest of any sort, to pay for an inspection by a man as well qualified as a boiler inspector, a special fee to go through buildings and property that I might be interested in, or have some contingent insurable interest in for six months, and I would do everything that the inspector indicated ought to be done, because we do not want our property destroyed. We never would be paid, no matter what we got. Is there any such thing ever done, or is it possible to get it done? A. The factory mutuals in their rather limited area of operations do that on a large scale. The stock companies do it less completely, and without any system of charges, except in a few large cities; they do it in the ordinary city in this way, that an agent who is in close touch with any customer interested spe-

cially in the protection of his own property will ask an inspector or special agent of the company, which, among others, insures this property, on the occasion of his nevt visit at that agency or right to appoint an early visit to go over the property with the owner, and do just what he has indicated. It was done very often by a special agent operating in the State of Ohio years ago; that is, done without a fee; it is an incident to the conduct of the business. In a large city certain kinds of defects, as of unsafe conditions, or of changes that would involve a re-rating, result in the owner or tenant inviting the board of underwriters or the agent, if it be here in New York, one or the other of which will make an inspection at once, and give him all the specifications needed for the correction of a defect found, or advice as to what can be done to affect his rate or prevent an increase of rate. To a considerable extent, also, the companies in New York have their own inspectors, over and above the inspection of the board and the Exchange; for the most part they do not deal with purely technical equipment like electric light equipment; but general underwriting conditions are inspected independently by many an office, and in that way the property owner is brought in contact with expert knowledge and advice. A moment ago I referred to the valued policy law as a moral hazard, and I want once for all to dispose of my small interest in that subject by saying that the typical result of the valued policy law is the case of the men whose property may not have been over-insured through his fault or that of the agent, but may have been fairly insured, and after the policy begins to run that property, for reasons beyond his control, depreciates; the neighborhood changes its character; it becomes less desirable as a residence neighborhood, or is made over into a factory or boarding-house neighborhood, and his fine dwelling loses its market value rapidly; that fact is not likely to be known to the insurance company or to the agent who issued the policy. The contract has been made, the premium remitted, and the commission retained by the agent, and no interest in that typical risk survives. The time comes when that man knows that he cannot sell that property for what it is insured for to any other customer in the world but the insurance company whose policy he holds in a valued policy law State. Now, I do not follow

the course of that building any further, but I say that the moral hazard the law thus creates more than offsets even the imagined evils that the law was intended to correct, and in large measure those evils were imaginary. Governor Shaw's veto of a valued policy bill in Iowa ten years ago was the beginning of the turning point in popular Western and Southwestern sentiment of that kind of law. Among the points he brought out was this, that in a sense it was class legislation, since it was impossible to make it apply to the owners of personal property, and was limited in its operation to the owners of buildings and structures. I have already said that in New York, or at least in Manhattan, seventy per cent of the insurance money we pay out is on personal property, contents, not buildings or structures, but in New York city we care nothing at all about a valued policy law; the occurrence of the total destruction by fire of a building standing in the Metropolitan area is as rare as blue moons. As a matter of fact, the valued policy law operates almost wholly in the country districts, and when Judge Bruce cited figures for the rate of premium in certain Western States, I recalled the fact that when the valued policy law went into effect in the State of Ohio I personally saw the average rate of farm property go up in three years from ninety cents for five years to $1.50 for five years, and most companies quit writing it at any rate. At the end of ten years after the most recent of the three valued policy laws, in the States of Missouri, Wisconsin and Ohio, statistics showed that the average rate on farm property had doubled in those three States, while in Illinois and Indiana, enclosed by those three in one solid group, those rates had remained stationary. Now, it did not show in the average rate of the whole State appreciably. Other conditions operated partly to offset it, but it is true of farm properties.

By Judge Bruce:

Q. Why is it true of farm property, if I may interrupt you? A. Because is is a class of property which is easiest to over-insure, which has therefore the strongest inducement for the agent to over-insure; the expense of procuring it is high, and unless he can get a considerable commission based on a considerable premium

he cannot make anything out of that business; the temptation to the agent to over-insure if he is ready to, may be strong, and the temptation to the owner is stronger than in any other class of property.

Q. Why? A. No man knows less about any other kind of property not his own than he knows about the value of farm buildings. They are almost never separately appraised, even informally. No outside judgment is of much value. This property is being torn down and rebuilt or removed or changed as to occupancy constantly, unexpected circumstances affect its value, and without warning to any outsider. The moral hazard is multiplied by those facts.

Q. You mean there is greater change in the occupancy and value of farm buildings than there are in other ordinary places? A. I think so; change from the owners' occupancy to tenants' occupancy, and *vice versa*; the erection of a new building on the same farm, which renders the old building practically valueless; the cutting up of farms, and the standing thereafter of one large building on a small farm where it is not needed at all; many things contribute to make variable the value of farm buildings.

Q. And that results in what? A. New Hampshire alone has never been reported by its own insurance commissioner as having been satisfied with the operation of the valued policy law. So far as I know every other State commission who ever touched on it has found in it an evil and a moral hazard. New Hampshire is a State of small, compact rural communities, every man knows his neighbor; the moral hazard can scarcely grow into existence without being recognized by the agents, by the population, it is a stable, rural neighborly population; there is no State like it having such a condition.

Q. Having been reared among the honest farmers, and having the highest faith in his honesty, I am surprised at your statement that the moral hazard is greater as applied to the farmer than it is to any other class of community? A. If you give the farmer a greater temptation than you give a city resident you put him at a disadvantage. I have only explained that his temptation is greater.

Q. Now, the State of New Hampshire is typically an agricultural State, is it not? A. Yes, sir.

Q. And if the valued policy law has worked well there, that would seem to be opposed to the statement which you have just made upon the record, would it not? A. I have explained that in my judgment the agricultural population of New Hampshire is different from the shifting, remote, newer population of the Western and Southwestern States, which for the most part alone, except New Hampshire, have such laws.

Q. How would you compare the agricultural population of New Hampshire with the agricultural population of New York in that respect? A. I know very little about the rural parts of New York State. I have lived in the State fifteen years, and all that time in New York city, but have had no insurance or other contact with the field itself.

Q. Now, Mr. Robb, the evidence here thus far in relation to the New York Fire Insurance Exchange would seem to indicate that it was a combination which absolutely controlled the market for fire insurance in the Metropolitan district; is not that correct? A. That is not correct because, because of the free access which the independent citizen has to insure in and by non-admitted companies.

Q. That is, if he obeys the laws of his State and wants to buy insurance, he must go to one of the companies who are members of the New York Fire Insurance Exchange? A. No, I do not understand that he is in violation of the laws of the State if he obtains insurance from an outside company itself.

Q. I said Obey, did you understand me to say Evade, I said obeyed the law of the State. A. I do not understand that he is disobeying the law of his State in procuring on his own property insurance in an outside company.

Q. The New York Fire Insurance Exchange is made up of every company licensed to do business in the Metropolitan district, is it not? A. Nearly; I am not sure that every company is a member.

Q. Now, to be frank, is it not a fact that the New York Fire Insurance Exchange by its members controls practically the entire market for insurance in the Metropolitan district? A. No; there is a great volume of insurance capital ready to accept from the owners of property in New York city insurance at rates wholly

different from those of the Exchange, although they are not admitted to do business through agents in New York State at all.

Q. What percentage of the insurance carried in the Metropolitan district is carried by companies who are members of the New York Fire Insurance Exchange? A. I have no sources of information. There are large risks, specially protected risks, on which the entire insurance is carried by New England mutuals, or Lloyds, or other outside companies, and on which there have been either no fires with published lists of insurance to enable us to tell anything about it, or the fires have been limited to those companies so that stock companies had no access to information about them; but a great many lossess occur in which stock companies admitted to do business are interested, and in which they find policies of non-admitted companies also in force.

Q. About how much do you think, what proportion of insurance carried in the Metropolitan district is carried by companies who are members of the New York Fire Insurance Exchange? A. I do not know at all.

Q. You say you do not know? A. I do not know.

Q. Would you think it would be as much as 95 per cent? A. I should think not.

Q. 90 per cent? A. Hardly that.

Q. 85 per cent? A. When you get down to 75 or 80 per cent I shall begin to cease following you.

Q. The manager of the New York State Exchange, located at Syracuse, Mr. Jenness, who was on the stand last week, stated that their organization contained only about 75 companies, and there were about 140 doing business in the State, and yet that they controlled from 66⅔ to 75 per cent of the insurance throughout the State, outside of the Metropolitan, suburban, and the excepted city of Buffalo. Now, in New York, you have in the New York Fire Insurance Exchange every stock company admitted and licensed to do business in the Metropolitan district; didn't you think you write at least 90 per cent of all the insurance, these companies? A. Possibly, but I think not, sir.

Q. Well, is there any broker in the Metropolitan district who is licensed to write insurance for companies which is not admitted to do business in this State? A. Yes.

Q. How many? A. I don't know. I think the statute limits the possible holders of such licenses to 200.

Q. And are there that many brokers in this city who are writing for companies that are not licensed to do business in this State? A. I don't know.

Q. You are speaking now, of course, of the surplus line brokers, are you not? A. Yes, sir.

Q. That is if they cannot get insurance enough from the members of your Exchange they are permitted to write for other companies? A. Yes, sir.

Q. I am speaking of original insurance, not insurance permitted by the rules of your Exchange, I am speaking of original insurance; are there any brokers licensed to write original insurance for companies that are not admitted to do business in this State? A. This is original insurance, sir.

Q. I don't know what term I can use; if a man wishes to purchase insurance, and has not purchased so much of the members of your Exchange but that you can still sell him and will sell him, is there any broker licensed, notwithstanding that fact, to obtain insurance for him in companies not licensed to do business in this State? A. I think that the affidavit upon which insurance in non-licensed companies is often obtained makes the statement that insurance cannot be obtained, when the mental reservation of the man who signs it is to the effect that it cannot be obtained at a price that suits him. Certainly, I know that in many cases the lists of risks on which affidavit insurance, so called, has been obtained, when they are reported by the Insurance Department, develop many companies that found they were open for lines and would have been glad to take lines if they had been asked.

Q. In order to write for such companies the broker must make an affidavit that the assured is unable to obtain the amount of insurance which he wishes from licensed companies, must he not? A. Yes; the assured I think makes the affidavit rather than the broker.

Q. What I am getting at is this: It is commonly alleged, and the agreement which has been offered in evidence would seem to bear it out, that the New York Fire Insurance Exchange is a combination practically of all companies doing business

in the Metropolitan district, for the purpose of fixing and maintaining rates. What have you to say in reference to that? A. It is an association of companies to which every new company which enters the State is eligible for admission, and which undertakes, by excluding none, to induce the largest possible membership, full of all the dangers of revolt and withdrawal if any injustice is habitually practiced, if rates yield too large a profit, there is no such thing as holding that organization together as if it were a close corporation of a few strong companies. The instant rates are too profitable, there will be an abandonment of that organization unless it promptly modifies its rates. Its main object is by agreement to control what would otherwise be perfectly illogical underwriting practices of its members. No man is capable of following a uniform policy in underwriting the kind of risks we have in New York city except in close co-operation with other underwriters, and that is the main object of the association.

Q. Whether it is a beneficient institution or not, or whether it is a good thing or not, aside from that, let us get down to the fact; isn't it a fact that fire insurance is a commodity, and that the only market in which it can be bought directly in the Metropolitan district is controlled by the New York Fire Insurance Exchange, and that that Exchange, by an agreement existing between its members, has the power to fix and maintain the price of the commodity? A. That is substantially true except for the use of the word "commodity" which I want to criticise.

Q. Well, let us start off with the assumption that it is a commodity? A. Then there is no control of a commodity by the fire underwriters.

Q. Well, if insurance is a commodity, the market for that commodity is controlled by the members of the New York Fire Exchange, is it not? A. You may as well let me explain why I cannot entertain that supposition. There is no stop rate, or cost of production figure possible in the fire insurance business. In the selling of any commodity competition will never permanently go below the cost of production; it will not develop permanently a ruinous effect upon those who are engaged in it? In the transportation business, in particular, there are the same conditions

existing as in fire underwriting. No railroad knows what it transports in one class of merchandise, it only knows what it costs to do the whole volume of business, because of the difficulty of carrying on that business. In the face of that peculiarity, and in spite of the fact that in large measure every railroad company absolutely controls operations of its own territory and has no competition therein, the railroads themselves, and the State government, and the federal government have discovered and abundantly satisfied themselves that efforts to prevent united action is not only impossible, but would be, from the point of view of the public welfare, foolish; and every effort of all these bodies has now been toward the elimination of discrimination among individual customers. And that can only be done by the maintenance of uniform rates, and exactly that has been done, is done in one way or another, and will continue, because it must continue to be done, in the fire insurance business. There never can be a revival of any permanent, independent, fully competitive rate making for fire insurance risks no more than there will be a revival of the Ptolemic System of Astronomy. It is just as thoroughly discredited and impossible under modern conditions. You may do it by a local board of underwriters; you may do it by an advisable bureau, selling rates to underwriters who may choose to buy; you may do it by State rating, or you may do it in a supervisory way through a State board of appeal; but it will be done in one of those ways by united, and not by separate action, or the business will not continue to be any protection to the public at all. Neither the security, which is the prime requisite in Fire Insurance, nor the equity which is its next most important feature, as applied to the individual policyholder, can possibly be done in any other way.

Q. Well, assuming that the New York Fire Insurance Exchange is a product of the age, necessary to a successful and safe conducting of the business; assuming that it controls the fire insurance in the Metropolitan district; that it maintains and fixes the rates,—and those are practically valid assumptions, are they not? A. Why, if you will insert maintain them, incidentally, yes.

Q. Well, maintain them; don't you feel that such a commission

performing such functions should be under State supervision? A. I have not reached a conclusion as to the final answer that must be given to that question. I am satisfied, that under existing conditions, and for many years yet to come, that would be a disastrous change. The maintenance of any bureau of the State, not for two or three years under a peculiarly high-class administration, but permanently year after year, upon such a plan of intelligence, fairness and absolute indifference to political influence, with a carefully worked out method of rating that would be maintained thereby, and all discrimination avoided, or discrimination avoided with anything like an approach to the completeness shown in the work of the New York Fire Insurance Exchange would be absolutely impossible.

Q. Fire insurance is a necessity to the people, is it not, practically? A. Substantially.

Q. Do you think any government should permit any men, or combination of men or companies, to control the rate of a necessity without a supervision? A. Waiving the question whether the State has any right whatever to fix the price of insurance or of groceries or the merchandise sold by any corporation, not living by and under a franchise, and having some portion of the functions of a common carrier or public servant — a question that I cannot now answer if it were raised; the physical, practical difficulties in the way of the assumption and maintenance of any such State authority I believe to be insuperable in a State like New York. The Superintendent of Insurance in the State of Kansas, when the State Rating Law was put in force there, told me that if Kansas had not been substantially an agricultural State with but two cities of any size in it and with those occupied by comparatively simple fire insurance risks, the task would have been not only theoretically, but practically impossible.

Q. But assuming that if under our present Constitution the Legislature has no such authority, and the Constitution were amended by the people so as to give it such authority, don't you think that the people of the State should insist on a State supervision of an organization which exists for the purpose of controlling the rate of a necessity? I used the word "rate" to avoid the word "price," because price might apply to a commodity,

and you do not care to assume that insurance is a commodity? A. If the State could possibly do that work as well, as fairly, as far above criticism in the results reached as the bodies of underwriters operating within its limits actually do, the practical objection would be removed. I think they could not.

Q. That is from the underwriters' point of view? A. No, from the public's point of view.

Q. Perhaps the public may not be as well satisfied with the work of the Board of Underwriters as the underwriters are themselves? A. The average rate of premium in New York State is the lowest of any State in the Union, and the average of loss to premium income, not to property value, is about the same as the average in the United States, and of course that ratio to property value is very much less; the ratio of loss to premium income in the Metropolitan district is substantially the same as it is in the State, and the same as it is in the United States. There is no excess profit reached habitually and regularly out of the State of New York, or of the city of New York, as compared with the operations of the companies in the country at large, under all kinds of conditions.

Q. Well, aside from the State assuming to do the work of the New York Board of Underwriters, in the fixing of rates; laying that aside; don't you think if a State permits a Board of New York Fire Underwriters to exist, and to make rates, why then that there should be some authority in the State to which the citizens could appeal for a determination as to whether or not the rate fixed is just and equitable? A. With the possible exception of the Buffalo board, as to which I have little information, there is no charter or legally incorporated body in the State which has anything to do with the making of rates. These are voluntary associations of individuals, like those obtaining in all kinds of occupations. The New York board, which has a charter, does not make rates under it. The Exchange in New York city, the suburban exchange and the State Association have not charters. They are mere associations.

Q. Well, the Legislature has power to prevent combination of individuals or of corporations for the purpose of fixing a rate and controlling the market of any commodity, or of any necessity, has

it not? A. That is a legal proposition I am not prepared to discuss with you.

Q. Assuming that it does; now in all fairness would citizens who must go to the market controlled by the members of your Exchange to buy what he needs, shouldn't he have a right of appeal from the price fixed by your Exchange, say, to the Superintendent of Insurance, or some other body, to determine whether or not that is just and equitable? A. I am unable to see how a system of appeals of that kind can be made practically useful. In this territory there is a right of appeal from the original rate made by the Exchange, to the manager of the Exchange, and through him to the rate committee, made up of competing individuals desirous of gaining credit for themselves by favors to the applicant; and from that rate committee to the entire membership of the Exchange.

Q. Yes, but that is only appeal from Caesar to Caesar; the assumption will be that Caesar will affirm Caesar. A. The only appeals there are in the world are from one to another representative of the same final power. If there were,— I will be frank with you,— if there were a possibility of maintaining a commission, or Board of Appeal, which could be made up at once of men who were competent and men who were absolutely impartial, and if through the changing administration of the State government such a body could be maintained and could exercise the right of hearing and passing judgment upon appeals from ratings of underwriters the underwriting world would have very little ground of complaint. I am quite sure that no permanent body of that kind could now be hoped for in this, or, probably in any other State.

Q. Why? A. The answer is politics, Judge.

Q. Why politics? The essence of practical politics is responsiveness to personal influence. And any body of political appointees will be under desperate pressure in the execution of any such delicate work of adjustment as the supervision of Fire Insurance rates, and either individuals or classes of citizens will get sooner or later, and through long periods, though not always, from such a body favors that are unjust, and that they cannot now get.

Q. Couldn't there be appointed by the Executive or elected

by the people a body of men who, for justice and fairness, honesty and equity, could be relied upon to the same extent to which the rate-making body of the New York Fire Insurance Exchange can be relied upon to do justice? A. I am sorry to say, I think not.

Q. Well, sir, my faith in a democratic form of government and in government by the people exceeds yours. A. Well, such a body can for a period of two or three or four years be appointed and maintained to do admirable work. I think there is a body somewhat like that in operation in the State now, with two branches. I do not believe that body can be kept at its present high level over a period of years. I do not know anybody that does believe it can, although all praise was given to the members of that commission and the appointing power which created them.

Q. You refer now to the Public Service Commission? A. Yes, sir.

Q. Well, here is an example of a man who believes that notwithstanding the high rating they are now conceded, that that will be maintained, and perhaps exceeded. I am an exception to the rule. I am very glad to hear it. If sufficient guarantees of such a maintenance of a supervisory body in the fire insurance business could be had it would make a very different question from the one you have asked me, so far as I view it. It would require to have a good deal more detailed, expert equipment than the present bodies have in their work; I mean the present Public Service Commission.

Q. How many of the brokers licensed by the Exchange have signed both the first and second pledges? A. Substantially all of them; I thing all of them, now; that was not always true.

Q. Then practically all the brokers licensed to do business in the Metropolitan territory, by accepting the extra five per cent, are not permitted to write insurance for companies not members of the Exchange in the event that companies which are members of the Exchange are prepared to write insurance of that character? A. Unless they wish to withdraw that pledge and use their right to place business at a lower commission.

Q. My question applies to the brokers who have signed both pledges, which, you say, constitutes all brokers? A. That is true.

Q. Now, what is your view with reference to brokers being

licensed by the State, instead of being licensed by the New York Fire Insurance Exchange? A. I see no objection to their being licensed in both ways, as they are in Massachusetts.

Q. Why not licensed only by the State? A. A State license, I think, covers a kind of responsibility and conduct that is too narrow, and somewhat different from that of the fire underwriting body.

Q. Well, if he holds a license from the State as a perfectly reputable, competent man to do business of fire insurance broker, why should it also be necessary for him to obtain a license from the New York Fire Insurance Exchange? A. Well, for one reason the State would have no special object, probably, in discriminating so carefully against certain occupations and against certain relations of business, or kinship to property owners, in brokers, and inasmuch as the State could not control, as the Exchange can, the indirect forms of rebating by anything in its license; that would not make a very great opposition.

Q. Doesn't it do it in life insurance? A. I don't know anything about the operations of the life insurance broker, or the limitations upon his eligibility.

Q. I think I am correct, am I not, that it does do it in life insurance?

(Mr. Hurrell answers yes.)

Q. I am sure I am correct in the statement that it accomplishes that thing in life insurance; why not in fire insurance? A. Because there is no discrimination of rates whatever in life insurance, and there is the widest possible range of ratings in fire insurance.

Q. You mean discrimination between classes? A. There are between individual risks of the same class. One risk may cost to write ten times as much as another.

Q. Now, having gotten your viewpoint upon that, let me ask your view upon another subject. What is your view of the proposition that public adjusters should be licensed by the State? A. I haven't any very strong convictions upon that subject. The question how far you can limit a man in his choice of an agent for the accomplishment of a particular piece of business is rather complicated, and I would hesitate to extend the powers of the State very far in that direction.

Q. Mr. Bement, who represents the Home Fire Insurance Company, seemed to feel that a large body of the public adjusters were incompetent men, perhaps often given to improper methods, and possibly impure motives, and thereby becoming a nuisance; that there were a large number of public adjusters who performed a valuable public service; now, that being true, what would your views be upon the proposition that the public adjuster in order to carry on that business should hold a license from the department? A. I should carry my distinction between the different kinds of conducts that I have met with many public adjusters, just one step further than Mr. Bement did and bring it largely home to the principal. There are public adjusters in New York who will not do a shady thing, or allow any serious misrepresentation to be made in the conduct of an adjustment in their hands for certain clients; they dare not. And those same adjusters will not only do, at the dictation of another kind of client, the most disreputable thing, but they will suggest them to him for the doing. It depends largely on the property owner back of the public adjuster what the latter's conduct will be in the adjustment.

Q. Yes, but the ordinary assured rarely has more than one loss during his life time; he has, therefore, had little or no experience in the employment of adjusters, and consequently he is not qualified, perhaps, to make a selection with such accuracy as you suggested. Now, in order that the conduct of adjusters who resort to improper practices should be regulated, and that they should be brought to task for it, what would your idea be of their being required to hold a license from the Insurance Department, in which complaint could be made in the event it was found they had resorted to such practices? A. I have no strong feeling on that. It might do good. I should hesitate to accept the fact that a public adjuster held a State license as a sufficient reason for assuming good faith in a man whose previous record did not justify me in so doing.

Judge Bruce: Have you any question to ask, Mr. Hurrell?

By Mr. Hurrell:

Q. I want to ask Mr. Robb at this point if the companies, members of the Fire Insurance Exchange, would not be in a much

better position to answer the very questions which Judge Bruce has been asking you if you had some data in the way of classified loss experience that you could refer to as a basis of satisfying an inquiring mind; whether, if the companies had such a uniform classification, that when the State asked them whether they are doing their business fairly or unfairly, you could take specific classes of business, and say, "We are doing it fairly, because in a certain class, for example, we take in so many premiums every five years; our expenses were so much, our losses were so much; our losses and expenses, plus a reasonable profit, just balances our premium receipts, and therefore we are doing a fair business." If you were in that position couldn't you give better answers to a number of inquiries that have been made of you? A. Yes, but getting into that position is quite impossible. There are some classes that lend themselves to a tolerably clear classification of losses; but the insurance business as a whole,— the whole body of insurance risks cannot be so treated. I cited the other day the case of a certain risk which had had four successive policies issued on it by the same company, and because of temporary changes and occupancy, all four policies were charged to four different classifications, and they remained so on the books of the company. When the fire occurred it was impossible to say under which class that loss should be charged.

Q. Don't you suppose that the mind of the underwriters is sufficiently keen, so that a classification could be determined upon in advance, which would solve that very specific instance that you gave? A. If it were determined on in advance it would have to be changed very soon; it would never be permanent.

Q. Then change it; you could, approximately? A. Then your figures become worthless; the records you have laboriously acquired become worthless, to test the fire loss when they come.

Q. It is possible to adopt a uniform classification even if in that classification you put in the miscellaneous class, and classes you cannot otherwise classify, isn't that true? A. If you put into the miscellaneous class those risks which in New York city hold about seventy-five per cent of the income, yes, you can make some kind of a classification.

Q. And then if you had a classification upon an easily rated

class, for instance, you could answer the State when it asks you whether your rates are fair, couldn't you? A. It would not go very far towards furnishing such a final answer.

Q. Who is Mr. E. F. Bedell, Mr. Robb? A. Mr. E. F. Bedell?

Q. Yes. A. He is the law manager and present general attorney for the United States Royal Insurance Company.

Q. And he has had a very long experience as a fire underwriter? A. He is a very highly accredited underwriter, indeed.

Q. And stands very high in underwriting circles? A. He does.

Q. I have here, an address which Mr. Bedell delivered before the National Convention of Insurance Commissioners in 1898. With the Committee's permission I wish to read one or two extracts from that address, as a basis for questions. Speaking of rates, Mr. Bedell said to the commission: "It is, furthermore, beyond dispute that a rate which shall be fair to both company and assured can only be reached by utilizing the combined experience of all the companies engaged in the business. If property owners are really desirous of ascertaining the exact cost and exact laws governing the business, the method above suggested supplies the means. In our Bureau of Vital Statistics we have collated all that information which is necessary to show the condition of health and longevity as they exist in every town in the country. I know of no reason why similar statistics could not be collected by the State offices on the subject of fire losses, and thereby set at rest forever that cry for legislation against combinations of insurance companies which is raised all over the land. Let us know what the losses cost a year, and the rest will be easy. With this information before him the Insurance Superintendent could make up a tariff of rates as well as the most skillful underwriter, and when a tariff had been made by State authority a law might be passed providing that no higher rates should be exacted by combination. The companies, however, being free of course to write at the rate fixed, or not, as their judgment might dictate."

Then he further calls attention to this: "This is in substance the method adopted by the life insurance companies in making their rates. They first ascertain from experience the average ex-

pectation of life, based upon the health and conditions, at certain ages, and having determined this they construct a table of rates based upon a fixed rate of interest, adding to those rates such as loading and the expenses of conducting the business."

Then follows a recommendation for the keeping of a carefully classified experience, and winding up with this: "At the outset, doubtless, my plan would be ineffective, for the reason that we would have only the experience of one year to determine the rate, but this in due time would be limited, for provision might be made for averaging the experience of each successive year until the first decade had been passed, and then striking off the earlier year and substituting a later one in making up the average."

Now, there is outlined some of the suggestions that have been made, I think, last week, as well as this morning. Now, I renew my question, as to whether, if the companies had kept such a classification as Mr. Bedell recommended in 1898, they could not answer the query which is raised of the Fire Insurance Exchange now, and answer it intelligently, rather than say the rates are fair because the combined fairness and experience of the general underwriters has been put upon the proposition of making rates, and, therefore, they are fair; without answering further? A. The test of fairness is the final ratio between premiums written and losses incurred in the country, the State and the city. To that test we are always subject. The discrimination among classes, the way in which rates for different classes, so-called, are varied, can only be tested in the most approximate, in the crudest way.

Q. Yes, but I still ask you if you had even tested in the crudest and most approximate way, if they would not be in your judgment, a more satisfactory answer to the public than the answer you do give, namely, that it is a rate, and it is fair, because we are experts and we know it is fair? A. Oh, but I have said that we have resorted to the classification tables of the companies; that we have used all there is in them, and are embarrassed because the companies themselves are outgrowing the use of those schedules than they are taking up that use.

Q. Now, let me ask you right there, so the Committee won't misunderstand this question: Has the Fire Insurance Exchange

any record of any class of any company? A. Any record of any class of any company?

Q. Yes. A. Very many, for particular inquiries.

Q. Of the loss experienced? A. Surely, for particular inquiries. Those are collated every once in a while.

Q. Are they kept in permanent form? A. They are usually filed with the subject or class that was under discussion at the time, but in many cases we found, even in that case, them to be quite useless. A company that reported as the Continental did, in answer to such inquiry, a premium income of a class of $20, and a loss of $5,000 thereon, was not greatly contributing to our enlightenment.

Q. Did any of the other companies have precisely that class? A. I do not recall the class in which this particular answer was made.

Q. Well, you won't attempt to say, and I gather this from your previous testimony, that there is any effort made by the Exchange to have a uniform class for use by its companies, and to get a combined experience upon the same class? A. Many members of the Exchange, at different times, have proposed, and insisted upon it, the adoption of a joint classification and experience table. It has been discussed many times there, and in the Board of Fire Underwriters, and the consensus of opinion has never been brought around to its adoption.

Chairman Merritt: We will have to suspend here, as the Board of Canvassers are compelled by law to declare their results in this room at twelve o'clock. The Committee will stand adjourned, under the circumstances, until two o'clock, to meet in what is known as the Council Chamber, across the hall.

Recess until 2 p. m.

AFTER RECESS.

WILLIS O. ROBB, resumes the stand.

By Mr. HURRELL:

Q. Mr. Robb, I show you a report from the Committee of the New York Board of Fire Underwriters, dated March 15, 1905, and ask you if you ever saw that report before on this subject of classification? A. Yes, I have seen that report before.

Q. Does that report comprise one of the efforts that you spoke of in your last answer? A. It does; the last important effort made in the New York Board of Fire Underwriters, I think.

Q. And do you know what happened to this report; was it adopted or rejected? A. No action was taken upon it. It was shelved.

Q. That is, laid on the table indefinitely? A. Yes, sir.

Q. This report is signed by some active underwriters of the companies represented in the Fire Insurance Exchange; is it not? F. O. Effel, Chairman? A. Yes, sir.

Q. C. F. Schallcross? A. Yes, sir.

Q. Henry Evans? A. Yes, sir.

Q. Samuel R. Weed and Frank Luke? A. They are all prominent underwriters.

Q. That report would at least summarize what the beliefs of these five prominent underwriters were on this subject of classification, would it not? A. I have understood it contains in detail the beliefs of two of the members, and that it was signed without special dissent or examination by the others, who were convinced that whatever they did no action would result. Two men at least were in good faith in the preparation of the details of that report, as well as its general form, and the others accepted it without going into details to any extent.

Q. Knowing that the Exchange would not adopt it? A. That the New York board would not. This was not an Exchange movement.

Mr. HURRELL: I wish to offer this in evidence and have it marked as an exhibit.

(The report so offered and identified was marked Exhibit M in evidence.)

Q. Now, just to take up the subject so it would be rather continuous from this point, will you state whether you do not believe it is possible for your Exchange to adopt some kind of classification of losses so as to give answer intelligently when a question is asked as to whether one particular class is producing a profit or a loss? A. I think it cannot be done, limiting the answer especially to your inquiry — classification of losses. I think that is even more difficult than classification of hazards.

Q. Classification of hazards? A. Yes. It is even more difficult than a classification of hazards.

Q. That is, I take it you admit that when the insurance is placed, that it is possible to classify the risk; that is, before any fire occurs into a class which has relation to its relative hazard? A. Only a proportion of them, but the larger portion thus can be so treated in a loss record, I think.

Q. Well, it would be possible, if you treated as large a proportion as you could — it would be possible to use that classification and add to it when the losses occurred — the various losses which occurred in the class as you have previously classified them, would it not? A. Classifications change before the loss happens.

Q. Well, suppose it don't change? A. Well, if you will make suppositions enough I will grant you all you want to know about classification. I cannot make those suppositions.

Q. Let us see if we cannot get down to something concrete. Mr. Jenness testified last week that you could keep theatres, protected and unprotected? A. Yes, sir.

Q. In a class? A. Yes.

Q. The protected being one class and the unprotected being another? A. Yes.

Q. I ask you specifically as to those two classes whether it is not possible for a rating association to keep account of the premiums received and the losses incurred in those two classes, so as to be able to determine, say, at the end of five years, whether those two classes are run at a profit or at a loss? A. That can be done, but if the time comes when any one or more theatres are fully protected with automatic sprinklers — an unlikely thing because partial equipment is perhaps preferable — if it does come there will be companies that, from their experience, will insist on

ceasing to classify those risks as theatres, and will begin to classify them as sprinklered risks, and you cannot prevent their using their changed classification. There are others that will classify them solely by reference to their fireproof, or non-fireproof qualities, and with only a subordinate reference to their occupancy. No principle of classification meets with general acceptation among underwriters.

Q. Now, you answer how you do because of what companies now do in mixing up or interweaving these various classes? A. No. Rather because of the fact that they have come to that state after many a painful experiment in classification than because they do not have now agreed classification systems.

Q. Well, of course, that classification would remain uniform if a statute made a company keep a classification in accordance with what a supervising authority directed it to keep, would it not? A. And useless; yes, sir.

Q. They would keep it though, in classes? A. Oh, yes, and they would show it to them every time they came there, but they never would write a policy because of its existence. They would write policies for other reasons.

Q. But the result of that would be that when an inquiry from the State came, asking them whether there was a profit or loss on a particular class of buildings, it would be there for the State to see, even though it was an ignorant seeing, would it not? A. Oh, yes.

Q. And it would be of some value, would it not, in determining a future rate upon a class not mixed up with any other class — one of those fortunate ones that could be kept by itself, and the result of one five-year cycle would be useful in determining the rate for the future? A. Yes, a cycle, and a large enough area would both have to be dealt with, but with unlimited large classes, where construction, equipment, fire experience, methods of manufacturing, or character of occupancies do not change — if it was vitalized, permanent, dead to the world, that class would yield some profitable experience to underwriters in statistics; not in revenue.

Q. Will you undertake to say that a class that is subject to change as building conditions improve — that the intelligent

underwriters cannot take an experience upon one of those classes, of say the past ten years, and use that in connection with his knowledge that the class as a whole was improving? A. When you say "class" you are classifying by occupancy — just that one sole factor out of four.

Q. Lets's keep down to the theatres so we will keep it down to the one class we agreed on? A. Yes, and you are classifying by theatres because they are so occupied, without reference to construction, protection, equipment or exposure, none of those things moving.

Q. Well, wouldn't it be possible, even with t
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trine and theory of classifications, and relies absolutely upon the contributing power of different causes of fire hazard in every risk, regardless of its classification by occupancy, or any other simple classification. It shows how diverse are the views of practical and theoretical experts in the fire insurance business, that he should without qualifications reject absolutely all classification. I do not do that yet.

Q. That is, you attach some little value to it yet? A. I do. I would not want to entirely dispense with the existence of these [illegible] though they are perhaps becoming less valuable. [illegible]ddition, is that absolutely new classes, judged by [illegible]cupancies, the character of manufacture, de-[illegible]ell, we have to be ready to write insurance [illegible]aiting for any kind of classification sys-[illegible]tate or anything else to furnish us [illegible]w it. That is, by that method [illegible]te the business, and after [illegible] is worth, and write it. [illegible]arbon points for arc [illegible]st, and it cost $80 [illegible]e them, and be-[illegible]erty, the cost [illegible] process in-[illegible]rd of one [illegible]s abso-[illegible] those

Q. And such diverse classified records as each company might keep? A. In the case you will suppose, they will not be diverse; if it is a very simple, uniformly well known class, they will probably be in an agreement. Yesterday the manager of a company telephoned me to ask when he could present to the rate committee a request to have the base rate on a certain permanent article of merchandise in New York city reduced, and he quoted the experience of his own, and four or five other officers which he had conferred with about it to show that their record on that class, which again happened to be a tolerably permanent class, a kind of merchandise which is imported in large quantities; is of tolerably uniform quality; is in warehouses that are much alike in construction, and this was in so large a volume and value as to render a fairly good premium income in the bulk — the experience of these officers which he had consulted, and which, if he takes to the rate committee, will be submitted to that committee, indicated that for the last few years, though not any long period, there had been a little too much profit made on that class.

Q. That is in his company? A. No. His figures were based on the reports he had obtained from other companies as well as his own. In that particular class, and within those limits, the classification will be useful to the public, useful to the Exchange in guiding its action, and occasionally that happens on property of considerable value, as in this case, but the number of classes in which they can be used, as I have so often tried to explain is small, and smaller in New York than anywhere else in the United States — in New York city — simply because of the shifting character of the occupancy of the co-tenant buildings that fill our whole congested district, the impossibility of permanent classification of a risk.

Q. Well, suppose a merchant with a risk in that class should come to the Exchange, after you had adjusted that rate, would the Exchange show him the results of the classification of the experience of those four companies, in trying to educate him, as the risk is, either reduced or raised? A. Yes, it has done so.

Q. Well, then, in the cases where the experience is classified by the companies alike? A. Yes.

Q. Does the Exchange make a permanent record of that to

show any particular person why the rate was lowered or raised? A. It does not. It canvasses anew the interested companies when the question of a rate is brought up by anybody, any company, or member of the trade affected, or broker — it canvasses anew their figures, and brings those down to date. It could not keep its own figures down to date.

Q. Now, I want to ask you, Mr. Robb, if these schedules which you have spoken of, which are arbitrary — I won't say arbitrary, but which are fixed for the various classes of business, in which the credits and charges are set forth specifically — whether the schedules upon any rate or any risk in New York city can be obtained at the offices of the Exchange by any broker? A. Oh, no, but by a member interested in that risk, or his accredited broker, his representative, with an order from him.

Q. Now, why is that not a matter of public record? A. Well, that is partly because of the voracious competition among brokers, for the control and placing of business is such that it would be just like leaving valuables out of doors to let any broker know the exact detail of the make up of the rate of some party represented by another broker. The extent to which misrepresentations are made as to the ability of a competing broker to get reductions and business transferred on false representations of that kind is already sufficiently great. It is necessary to protect and limit this information to the owner himself and to his broker. Sometimes he employs two brokers, which either of whom can get the schedule. He has a right to a certified copy of his own schedule, and he compares that with members of his own trade if he is interested. If he is a theatre owner or hotelkeeper, or some trade that has an association, he will do so, and comparison of those points is often made, but it is not a matter of public record.

Q. Well, one reason of this schedule is to set forth the charges and the credits that it will automatically tend to reduce the fire waste by improving risks. That is one purpose of the schedule? A. Yes, and it so acts.

Q. And you claim that is the way it has worked out? A. So acts.

Q. If that is so, why should there be anything to fear by permitting another broker, who might be competing for the particular

risk, to have that schedule, so that he could point out to that particular owner the ways in which that owner could reduce his premium? A. We want the owner to say whether he asks any broker to come in for that purpose. We could not set at the man's head an army of brokers soliciting his business. He would have to stop doing anything else on earth if every broker in New York of equal prominence were his own, and would lead him to compete for that business in great detail. If he wants, on the report a broker might make to him, to give an additional broker this information, he can turn over his schedule to him to see what he will do with it, but we cannot furnish direct this confidential information when many a man does not want his rival broker to know of his rival process, that we have been ready to examine and base a rate upon.

Q. Does your rate reflect the process, the secret of the process? A. It reflects our judgment of the hazard of that process.

Q. Does your judgment of the hazard of any process — would that interfere with the workings of his business? A. Would it interfere with the workings of the insured's business?

Q. Of the insured's business? A. Why, to distribute that information — to show that that particular hazard was comprising a charge at a given rate in the schedule, showing it in detail, and furnish that information to the rival broker, or a rival in business, would be a ground of complaint very promptly.

Q. I do not quite get that. Why should it be?

Chairman MERRITT: It might disclose a process that nobody else knew anything about.

Mr. HURRELL: That is why I was trying to get at it, whether the great increase in that percentage of hazards would disclose the process.

The WITNESS: Very many of that sort are written on the schedule. We will say gasoline torch, or a gasoline tank, or some other process for that matter, that will be charged for that he may not want his rival to know or may not want it known to everybody.

Q. That is, you mean he may not want everybody to know he has a gasoline tank in there? A. Any such risk in his place, or especially that he has any particular kind of a machine. It may be a very peculiar and hazardous machine. If you should try to

inspect certain risks in New York without a pass from the head of the firm or the broker who placed the insurance, you would find it impossible to gain access at all, no difference what kind of introduction, and all the more importance if there were any suspicion that you belonged to the same trade or represented a rival broker.

Q. As I understand your contention in behalf of the Exchange, it was that one reason why it was a good institution was because by the creation of these schedules you had organized something that would constantly and something that did tend constantly to reduce the rate. That is so, isn't it? A. It does.

Q. Now, if there is any virtue in competition, and there is not very much competition here as between companies, if there is virtue in competition as between the brokers who get a man's business, wouldn't it be a good thing to have outside of the same process it known to rival brokers of a given man who represents his risks, say that he would take that schedule to that insured and say I will get your rate down if his own broker has not been able to do it? A. If the owner wants him to do that, he can do it, on the long suffering owner of property but these companies can fix that schedule as well as any broker in New York, which is often the case.

Q. Of course the competition would be crowded if the result of the competition would be that that man's risk would be reduced, he would welcome it ordinarily, wouldn't he? A. Not always.

Q. It stands to reason, doesn't it, if two salesmen are going out and selling exactly the same thing, if one can outbid the other, he ought and will get the business? A. Sometimes, but not always in our business. Many times a broker's control of the business of a particular client is substantially independent of any small variations of rate. Formerly all business risks and all manner of things influenced the selection of a broker. One man may think of a given broker that he trusts, and absolutely would not have any doubt as to the policies he prepares, whereas some other broker unknown to him and would put in words very different and that would far outweight any slight difference in weight if the latter could get any concession. It is for the property owner to determine that question.

By Judge Bruce:

Q. Do the various brokers have lists of their rates as composed and kept in your rate cabinet in their offices? A. Ordinarily not, sir.

Q. May they subscribe for them and have them? A. They may.

Q. What is there attached to every policy, showing the rate and method by which it has been made up, that is giving the base rate, the merits and the demerits? Attached to the policy? Yes, so that the assured could know how the rate is made up, and know what he could do to reduce it? A. Well, so many endorsements are already necessary in the reduction of rates of policies already issued that if an additional series of endorsements every time a schedule was changed was also required on the policy we would have to double the force of clerks in the issuing offices of the companies to keep track of it. Many a rate is changed more than once a month the year around, and policies are not issued all at the same time, but at different times to suit the convenience of the owner and his bookkeeping, and there would be an endless succession of minute and unimportant changes to endorse on that policy over and above the long series of changes now endorsed whenever the rate is reduced.

Q. You mean the rate is changed as often as once a month on personal property or on real estate? A. When I say a risk, I mean one or other of the tenants in a building within four walls will so change his equipment, the character of his business or his protection, that a re-rating of that risk as a whole will be necessary, and it will affect the rate of every man in the building, and perhaps of the owner of the building as well. To the Exchange the word risk means a building and all of its contents, and a risk may have half a dozen cards in the cabinet, for that reason there will be a rate for the building owner and for every tenant on each separate floor. To a fire insurance company a risk means one of those separate hazards, that property on which it has issued a policy.

Q. What I had in mind is this: One of the useful purposes that you say the Exchange serves is to educate the assured up to the point of providing a minimum amount of risk if possible, that is, of charging him for certain delinquincies, and by crediting him

with certain efforts which he may make by additional appliances for the purpose of making the risk less hazardous, if that were all brought home direct to him? A. Isn't it? Everyone of these charges is in there; he knows what hazard that is charged for, and if he cannot himself determine whether or not it is removable he will consult either a broker or engineer. It is right before him. Most of the charges are as plain as A B C to him, without any expert adviser.

By Mr. HURRELL:

Q. When he sends for the schedule? A. Of course.

Q. When he applies and gets the schedule? A. Yes, sir.

By Judge BRUCE:

Q. But that rarely happens, doesn't it? A. No, very frequently.

Q. The average man who takes out insurance in the State of New York simply applies to the agent or broker and tells him I want so much insurance on my property; the broker goes to work and rates him as he pleases, and tells him what the rate is; that is practically the way the business is conducted? A. That is the end of it usually that he makes that agreement.

Q. That is it, isn't it? A. It is not — far from it.

Q. That might not be true of a man in New York carrying a heavy line of insurance? A. It is not.

Q. But I am inclined to think it is true of the average insurer throughout the State? A. I think it is less and less true as you come to more and more detailed scheduled rating; as you get to larger risks more and more inquiry is made about its makeup by the assured or his agent or broker.

By Mr. HURRELL:

Q. Have you got a schedule there with you, Mr. Robb, of any particular piece of property? A. I have schedules of three risks that you made mention to me of over the telephone.

Q. Of course a schedule shows the charges that were put on? A. Yes.

Q. And the credits that were taken off? A. Yes, sir.

Q. Does the schedule form carry with it the sum total of all the charges that may be put on and all that may be taken off for different kinds of inferiority or superiority? A. Practically so, the mercantile schedule does in entire detail. There are some blank lines left in the shorter schedules for inserting in pen and ink any peculiar features not provided for in the schedule. With those exceptions and classes of items that can be charged for and credited for, they appear in print on the schedule.

Q. That is true also of this applied schedule? A. Yes, sir.

Q. So that a citizen could look it over and see if he were an engineer enough where he could gain or improve his property? A. Yes; many of them do not require any engineering knowledge to pass judgment.

Q. Do you keep the statistics of the fire losses in your district in the Exchange? A. There are no accurate statistics; we have all there are, and they come from three separate sources, and they are all approximate and untruthworthy.

Q. What are those sources; how do you gather them? A. The sources are the reports of the two fire marshals that cover a part of the territory; the reports of the two fire patrol services that between them cover a part of the territory, and the reports of the Committee of Losses and Adjustments of the New York Board of Fire Underwriters, which covers a large proportion of the losses.

Q. Of which their companies of course have been —— A. Yes, sir.

Q. That is to say, the committee from the Board of Fire Underwriters report what the companies of the Exchange actually pay out in losses? A. They report the insurance loss in bulk on each loss that they handle as well as in detail reports of separate companies losses.

Q. Have you that divided into years; have you results, for instance, of the premiums received and the losses incurred in the Metropolitan district over which the Exchange has jurisdiction for, say, the last ten years? A. I have not, for ten years.

Q. How far back do your figures —— A. I have made comparisons of these three sources of information as to losses ony for three years.

Q. Will you give us those results, please? A. You want, I understand, the record of both premiums and losses?

Q. Yes. A. In stating the premium income of the companies, I should warn you that the source of these figures is the body of returns made to the treasurer of the Exchange for the year ending June 30th of the premium receipts of the respective companies, members of the Exchange, which returns form the basis of assessment made for the maintenance of the Exchange, and that I have, therefore, no calendar year by itself.

By Judge BRUCE:

Q. That is, June 30th of each year? A. I judge so. In addition to that, the three year period that I have tried to deal with here is a period covering the relinquishment by the Exchange of all rate-making in the strip of New Jersey territory known as Hudson county, this side of the Hackensack, which formerly was a part of the Metropolitan district, and over which the Exchange relinquished all jurisdiction about a year ago. The reports are a little untrustworthy, for the reason that that happened in time when a business year was ending, and also for the reason that the last reports made in June of 1910 are known in the case of some few companies to have inadvertently included income of that New Jersey territory because they had got in the habit of so making their returns.

By Senator WAGNER:

Q. That is income for the year previous to the date? A. That is income for the year previous to June 30th; the income was reported for the year ending July. I can give you the income for a longer period. I cannot compare the losses ——

Q. Have you got the losses? A. Not for a longer period than the last three years.

Q. Just give us the last three years then? A. The income for the year ending July 1st, 1908, was $24,673,073.20. For the year ending July 1st, 1909, $25,015,380.25; and for the year ending July 1st, 1910, $25,318,000; that last is approximate as to the hundreds.

Q. Have you got the average rate? A. The average rate?

Q. Yes. A. There are no figures which enable us to fix the average rate in this district separately from that of the State of New York; no figures that include a report of amount of insurance written, amount of liability assumed.

Q. Can you approximate it at all, Mr. Robb? You cannot separate the Metropolitan rate? A. Yes, I can approximate it, but that approximation is very rough. The average rate of premium in the State of New York, as shown by the department figures and the figures of the national board, was about eighty-one cents. It is probably not lower than sixty cents in New York city proper, and it may not be so low. Presumably fifty-five per cent of all the business in the State is in New York city, and it would operate to bring the average down pretty rapidly if the average were very much below that of the rest of the State. If that is approximately right, the liability assumed in the writing of $25,000,000 of premium income is $4,000,000,000 or thereabouts, $4,000,000,000. I should say that that compared with the $5,000,000,000 figure for the territory of the city of London, which, so far as I know, is the only area for which liability figures are reported less than in this country, a whole State.

Q. Now, the losses? A. I may say the average of these premium figures for 1907, 1908 and 1909, were $125,111,000, for practical purposes $25,000,000, since dropping New Jersey territory, a full figure for the premium income. The sources of the losses are as follows, and I call your attention to these because they are very illuminative. I will take first what are called the official figures, those of the fire marshals. Understand, those fire marshal's figures cover a territory even larger than the Exchange; they cover the whole area of Queens and Richmond counties, which the Exchange does not cover, and the aggregate for those figures for the three years 1907, 1908, 1909 was: 1907, $9,413,042; 1908, $8,904,748; 1909, $7,431,635; average for the three year period, $8,583,142.

By Judge Bruce:

Q. That is, the average loss paid was a little over $8,000,000? A. This is the fire marshal's report of the insurance loss by fire

in those three years. It is wholly untrustworthy. The fire patrol figures, which cover a smaller area considerably, do not even cover all the area that the Exchange operates in, because the fire patrol service does not extend to the outlying parts of the Bronx and Brooklyn and Long Island City, and some other sections, are considerably larger. Their facilities for gathering the figures are very much better than the fire marshal's facilities. No sworn returns are made to the fire marshals at all, nor are any made to the fire patrol. They are voluntary figures.

Q. Don't the member of the Exchange report to the Exchange the amount of loss? A. No, the Exchange collects itself no figures for losses.

Q. Why? A. Because the handling of losses and all such statistics are under the jurisdiction of the New York Board of Fire Underwriters, whose figures are, of course, available to the Exchange on inquiry; our offices are one above the other in the same building, and we use their machinery. I will now give the figures from the fire patrol: 1907, $10,784,677; 1908, $10,807,474; 1909, $9,289,255. Average for the three years, $10,292,398; as against the fire marshal's figures of $9,583,142; and I say that they are just as far below the real loss as the fire marshal's figures are below it. The best guide to fire loss figures in this field, rough as it is, is the published reports of the committee on losses and adjustments, although they do not cover at all the whole volume of losses.

Q. Well, taking the Board of Underwriters' figures then, the losses would about average $10,000,000? A. The fire patrol's figures. These are not adopted by the Board of Underwriters any more than the loss committee figures, which is a branch of the Board of Underwriters.

Q. The fire patrol is a part of the operations of the Board of Underwriters? A. Yes, and the fire marshal is a part of the operation of the city government, and neither of them can do this work.

Q. Let us take the Board of Underwriters' figures then? A. I have not finished giving the Board of Underwriters' figures. The fire patrol admittedly miss altogether hundreds of thousands of dollars of unreported losses. When the loss committee of the

New York board was established, and after it had been in operation a few years, as an experiment to determine for the first time what the probable losses in this district were, the thirteen members, including two ex-officio members of that loss committee, were privately asked to furnish to the secretary of the loss committee the gross loss figures of their respective companies or offices for the calendar year which had just then closed; and they did so, and those figures compared with the losses which the loss committee had in that same year adjusted for these same offices, and the average result was this: that the loss committee figures constituted only about 56 per cent on the average of the volume of losses of the companies represented on the loss committee, and presumably of the companies as a body. It is necessary, therefore, to add to losses which the loss committee does not handle the thousands of losses which are handled by the respective companies. They handle five times as many in number as the loss committee handles, although not so large an amount. It is necessary to add not less than two-thirds to their figures to find the fire insurance loss in the district known as the Manhattan district. As a matter of fact, the average for the three years, 1907, 1908 and 1909, of the losses adjusted by the loss committee alone was $7,805,000. That is almost as much as the fire marshal's figures just by themseves; add for this, say, 60 per cent. I make it less than 66⅔ per cent for the reason that the loss committee handles some losses for companies that are not handled by the Exchange at all. They approve proofs of loss that go abroad and to other companies, and those figures get on their records. If we add 60 per cent the average was $12,488,000, from which deduct for the New Jersey losses included in those three years, and not now to be deemed a part of the Metropolitan district, six per cent, which is approximately the ratio of premium and losses of the whole field that was chargeable to that district when it was a part of the territory, and we get a net result of $11,739,000 of losses in that territory.

Q. Now, so far as the Board of Underwriters have actually collected through the fire marshals or through the fire patrol, both of which are branches of the service, the losses, what do they aggregate? In the average of $10,000,000 loss, don't they? A. The fire patrol figures aggregate about $10,000,000.

Q. And the premiums are $25,000,000? A. The comparison is quite unfair.

Q. Whether it is unfair or not, you insist in commenting all the time upon the fact. I am trying to get at the facts, what the comparison should be is a matter for the Committee. What we want upon the record is this: It is a fact from the figures you have stated, is it not, that the fire losses in the Metropolitan district as collected by the two branches of the service for the Board of Underwriters, to wit, the fire patrol and the fire marshal, aggregate about $10,000,000 a year? A. Oh, no.

Q. Well, about how much? A. The fire marshal, about ten millions, the fire marshal only $8,500,000, and the loss committee, apparently was eleven and three-quarter million dollars.

Q. Would the average of the fire marshals and fire patrol come under $10,000,000, doesn't it? A. Surely, but I want to say ——

Q. Just a moment. I am going to give you every opportunity when I get through to make any statement you wish on the record, but there are some things I want to find out. A. You shall have it your own way first.

Q. The average premium collected for the three years was how much? A. Nearly $25,000,000, in an extraordinarily profitable period.

Q. Is there anything you wish to make an explanation of, if so you can now so do. A. Yes, sir. The fire ratio for these three years as indeed for the four years since the San Francisco loss has been extraordinarily low, not only for New York city, but for the country at large. If throughout the country we could rely upon the ratio of losses for the premiums established for those three years as permanent, rates could be reduced at once and everywhere.

Q. Who would reduce them? A. The underwriters, where they have jurisdiction; the State, where it has jurisdiction. They are not doing it. But they would if they had confidence in those figures.

Senator WAGNER: Who would be most apt to do it, the State or the underwriters?

The WITNESS: The underwriters, because they could do it more quickly and more intelligently.

Q. They should be more disposed to do it? A. They are the more disposed to do it.

Q. Anything further on that subject, Mr. Robb? A. No, I think not on that subject.

Q. Now, Mr. Robb, in fixing a rate, either a base rate, or the actual rate, in the city of New York, is the Metropolitan district divided into sub-districts by the Exchange? A. For different purposes, into different divisions, as to sub-districts, when we quoted the base rate in the mercantile schedule the other day, of ten cents, that applies to Manhattan, and there are different rates in the Borough of the Bronx and Brooklyn and outlaying points. There are several districts in Brooklyn which have what is called a district charge because of defective water supply and similar defects; and perhaps in some outlying portions of Brooklyn, for inferior general construction. And there are districts in which the city is divided into, in which a different rate is applied.

Q. Is Manhattan subdivided again? A. Manhattan is subdivided as to certain allowances made, as it is called at the counter, from the rate card. And those allowances are larger in an area protected by the fire main system, or the high pressure system, than elsewhere. Then there is a whole area on the East side where a peculiar base rate is used for rating certain classes of risks.

Q. And how is that area bounded, do you recall, generally? A. I don't know the exact outline of the area on the East side, so far as concerns the use of that base rate is concerned; but it approximately corresponds to the eastern half of the congested district, which lies outside of the high pressure area now in service, say from Chambers street on the south, to 14th street on the north, and to Broadway and the Bowery and Third avenue on the west. I am not sure that the whole of that territory is subject to the special base rate.

Q. What has the tendency been of the committee to increase the defective rates in Manhattan say covering the period of the last three years, in these different districts? A. Oh, in the three years? They remedied a large part of the earlier advance when the high pressure surface went into effect, probably with the result with a reduction of the premium income on the same volume of liability would have amounted to a million and a half dollars. That is only an approximate estimate.

Q. Is the city of New York, or Manhattan, divided in what may be termed, perhaps conflagration districts; districts in which it is possible a conflagration may sweep over? A. In a traditional way, the whole territory from Chambers street to 14th street, from river to river, has sometimes been called the conflagration district.

Q. Have there been any other subdivisions of the district known as the conflagration district, either by the Fire Insurance Exchange or National Board of Underwriters? A. In the Borough of Manhattan?

Q. Yes; the New York Board of Underwriters, I mean? A. I don't know, sir. There may have been. There are little groups of conflagration neighborhoods well known, but not large sections.

Q. You mean well known, or a matter of record in the department? A. Well known to underwriters I meant. One of them burned out, about 24th street, around Eleventh avenue, not long ago.

Q. Now, does the Exchange in any wise attempt to limit the amount of insurance which any of its members may carry in what is known as a conflagration district? A. They regulate their own policy invariably. The Exchange knows nothing about the lines that any company carried on any risk; the large losses on any territory they have; not losses in small territories.

Q. Would you deem it advisable that either under the rules of the Exchange or by law or ordinance that the amount of insurance that any company should carry within what is known as the conflagration district, should be limited? A. Not especially. It was tried for a good while in Chicago, but, I believe is now being abandoned. The districts change and the advisability of a given line is not permanent.

Q. If a great conflagration should occur in the city of New York, in what you have defined here as the congested district, extending from Chambers street to 14th street, it would practically bankrupt every insurance company that is a member of the Exchange, would it not? A. If the whole district I have outlined burned out?

Q. Yes. A. Well, it would involve an insurance loss about four times as great as the capital and net surplus of all the com-

panies. Some of them would pay up, and assess their members, and struggle on; some would not.

Q. What I had in mind is the suggestion that has frequently been made, that companies should not be permitted to carry in a conflagration district more insurance than a safe proportion to the amount of capital and surplus? A. I have never studied that very closely. For their own protection, as a matter of fact, the companies do limit, perhaps more closely that any State authority would be likely to limit, their line in congested areas. There may be some exceptions to that, but generally they regulate their own policy pretty closely, in order not to be subjected to the possibility of a great loss.

By Senator Wagner:

Q. Mr. Robb, are you quite sure that within the last three years, when you had this exceptionally profitable business, that the rates in New York have decreased? A. Why certainly, the total premium income has only held steady, and the increase of liabilities is very much greater, and you can't get anything else out of it. That is simple division.

Q. You presented the figures to the Committee of the increased liabilities within those three years? A. No, but everybody knows that the wealth of New York, subject to insurance has increased in those three years; greatly increased.

Q. You say that from the returns of the fire marshals of the city of New York you are able to say that there was a loss during the last three years, that is, each year during the last three years, of about eight or nine million dollars? A. The fire marshal has told us that. I never would say anything of the kind. I know his figures are useless.

Q. Do they report simply the actual loss at a fire, or the amount which the insurance company pays out? A. They make an effort to distinguish between insured and uninsured loss, that is only approximately, but their figures do deal with those two elements.

Q. The total amount the companies pay? A. Is their insurance loss figures?

Q. Insurance loss figures? A. Insurance loss, they call it.

Q. Is there a return of the actual loss to the property that was insured, or is the return the amount that the insurance company pays upon that loss? A. Well, they have no way of distinguishing between those. The insurance loss is what the companies pay. Then they deal separately with the property loss, in excess of the insurance loss, or try to. That is pretty difficult, but they do try to separate the two.

By Judge BRUCE:

Q. Does the $10,000,000 represent $10,000,000 worth of property destroyed, or $10,000,000 worth of insurance paid? A. Of insurance adjustments and payment, which was eleven and three-quarter million dollars.

Q. Now why, Mr. Robb, has the Exchange never attempted, or thought it necessary or wise, to have its different members report to it directly the amount of insurance losses within the Metropolitan district? A. I don't know.

By Senator WAGNER:

Q. Isn't that a very material factor in determining whether rates should be decreased or not? A. Well, it is sufficiently well known, but it has never been accurately ascertained.

Q. I should think your Fire Insurance Exchange would be very much interested in those figures, in order to determine whether the people were paying too high a premium or too low a premium? A. We are not allowed to forget if they are paying too much. The broker gets his instructions from his client, and he brings it to the counter; and in a little while the feeling becomes general that there should be a reduction, or that the loss rate should be reduced, and it is reduced.

Q. Then, the position the Fire Exchange takes is, they will make reductions only after there are a number of kicks that come in from individuals who say they are paying too much for their insurance? A. No, I only say that that information is available. It is not true that they ever wait in their important changes for any information except their own figures. They have made their important changes of rates, both by advancing and decreasing,

from their own information, and without the public or even the brokers knowing they were contemplating them for the most part.

Q. As a matter of fact, you have not any permanent record in the Fire Exchange of the actual losses per year, and use that as a basis for determining whether the rates are high or low? A. There is no record of insurance losses preserved in the Exchange at all.

By Judge Bruce:

Q. That seems to me most extraordinary, Mr. Robb. Here is a combination of insurance companies, organized for the purpose of fixing and maintaining rates, and while they have accurate figures as to the amount of premiums paid, they make no attempt to gather any statistics as to the amount of losses? A. Oh, that is a very serious over-statement of my answer.

Q. I won't say make no attempt; but why shouldn't the Exchange, which has charge of the rating, require each member of the Exchange to report for the fiscal year, as you have designated it, ending the 30th of June, the amount of losses that company paid in risks in the Metropolitan district during the previous year? A. We delegate to the board a good many other pieces of work which otherwise the Exchange would have to do.

Q. The board does not gather that? A. The board gathers it, within certain limits.

Q. Why doesn't the Board of Underwriters find that out from the members of the Board of Underwriters of the State of New York, and compare it with the statement of losses of the previous year, whether calendar year or fiscal year? A. We try to do it, so far as the fire patrol figures show.

Q. Why should it depend on the fire patrol, or fire marshal, why not require each member to do it? A. The fire patrol is the Board of Underwriters, acting in New York, as in other functions.

Q. It is within the knowledge of the member how much he has paid in losses during the previous year; why should not each member be required to report it; that seems to me most extraordinary? A. I wish they would.

By Assemblyman COLNE:

Q. Do the annual reports of the fire insurance companies contain any statement of their losses? A. In the State of New York; in the larger districts within the State, they generally do.

Q. Covering the Metropolitan district? A. No, the whole State. Every State requires a full statement of its premiums and losses from every company, and that is done in New York. We know that about fifty-five per cent of both premiums and losses in New York State is from the Metropolitan district and fifty-five per cent of the $13,000,000 loss in New York State, is this eleven and three-quarter million are of that eight and a half, or ten million dollars.

By Mr. HURRELL:

Q. Now, you have stated in general terms that your losses are about eleven and three-quarter million of dollars, according to the board's figures in an average year? A. That is my judgment for these three years.

Q. That is the average? A. The average of these three years.

Q. That is the average of any one year of the three years? A. Yes; and of a very favorable period.

Q. And the premium income on an average of one of these years was approximately $25,000,000? A. Yes.

Q. Now, as a business proposition, you would add to your eleven and three-quarter million dollars about forty per cent of the twenty-five million dollars, would you, to include the expense item? A. Yes, for expenses alone.

Q. For expenses, inspection and so forth? A. Yes, without any allowance for a reserve against conflagration, or for the profits to the company.

Q. Now, as an underwriting matter, do you figure that the difference between the eleven and three-quarter million dollars, plus your forty per cent of the $25,000,000, and allowing for a profit to the company and the reserve for conflagration; is that the way you figure it out as a rating proposition? A. Yes, sir. The difference between $21,750,000, and $25,000,000, is used in that way.

Q. Do you know whether just prior to the San Francisco

disaster, whether the companies in New York had as favorable an experience as they have had the last three years? A. It is claimed that the loss was larger from the loss committee's figures. I am not so familiar with the income figures, though they were smaller at that time. But that does not prove much, because the liability was perhaps smaller.

Q. I want to ask you about three specific cases here of complaint, that have come to the Committee; and I will ask you first, if you have the schedules with you of the rate upon the tenth floor of the Singer building? A. I believe I have, sir. What is the character of the complaint made in that case, if I may ask?

Q. I will read you the letter, or parts of it: "In the same company the complainant paid $10 for a $2,500 fire policy for three years on household goods; that figured $1,33 per thousand per annum; and yet he pays $18.53 for $1,000 on law books, on the tenth floor of the Singer building, 149 Broadway; that figures at $6.18 a thousand." He draws the Committee's attention to the fact that the office is a block away from a fire engine house, patrolled day and night by watchmen; and complains of the size of the rate. If you have the schedules and base rate for that particular risk, will you kindly inform the Committee concerning it? A. Well, it would not be of much use for me to state figures to a man, possibly a lawyer even — is he a lawyer?

Q. He is a lawyer, I take it? A. Who undertook to complain of the difference between his household rate of insurance and that of his office furniture in the Singer Building. But I will tell this Committee what I can about it.

Q. Just tell the Committee how the rate is arrived at? A. Yes, sir. The final rate of that building is 19.6 cents, and the contents rate for office furniture on the tenth floor is apparently 74.1 cents. You heard Mr. Hardy explain the making up of the mercantile schedule rating of the building in which Haan's restaurant is; and I will only say that this rate is reached by taking the building rate gross, at a certain point before occupancy is charged for, and at which point it is 48 cents; adding to that three-quarters, or a third called occupancy charge, a classification charged for office furniture and adding to that a certain fraction for every story above the 12th in the height of the building; and from that two, deductions

are made. One of them is a credit of 1, 2, 3 or 4 percentage deductions, for protection and occupancy, special building construction, watchman, standpipe, and so forth. They aggregate 13 per cent. And that is taken off then a charge of six cents is added, computed on the rates of the adjacent buildings; and a final deduction of 15 per cent, for the requirements of the eighty per cent co-insurance clause is made, and I call your attention to the fact that the rate on that building is reached by deducting 66 2-3 per cent allowance for the co-insurance clause. And that shows that the company in handling that schedule, make a sharp distinction between the case where the co-insurance clause is very favorable, and where it is less favorable. It is manifest to any of you that a fire, for instance, in any of the rooms of that building, is just about as likely to be a total loss, as if it existed in a frame building in the open country, pretty nearly. Whereas a fire in the building will be a trifling loss to the building as a whole. The rate for co-insurance, therefore, is very much more on the contents than on the building. Now, as a matter of fact, to illustrate what happens in a building like that, I happen to have a photographic reproduction of the inside of a suite in that building, that same building, which did have a fire in December. And you could shovel up what remained of the office furniture with a long handled shovel, pretty much. The building never knew it was hurt. The height of that building cuts this figure; that they must rely substantially upon the apparatus they have right there, and in the hands of amateur employees, as such a fire is practically as far out of reach of the fire department as if it were on the moon.

Q. On the tenth floor would that be true? A. That would be true for any fire that would burn out one room. It is all over before the fire department could get in operation at that level. Everyone of these tenants can take a serious smoke damage, to say nothing of a water damage, from a fire in almost any other tenant's room. The accumulation of this multiple occupancy there makes a great difference to the risk of payment to any one tenant. Now, all this is elementary, and it appeals to you at once as reasonable, but it has not occurred to the man who makes complaint about the rate, because he never heard the facts stated, of course.

Q. I call your attention to another complaint, where a citizen has complained to the Committee. The premises are located at 399 Classon avenue, Brooklyn, 399 and 399½. The complaint is that the company in December, 1909, without any change in risk increased the rate upon a one year policy of $4,000 on those premises, from $21.20 to $84. The policy submitted at such increased rate was returned to the company, and a one year policy for $2,000 taken out, for which $42 was paid. That was in 1909. On July 6th, 1910, a policy for $3,000 was taken out on the same building, when the rate was increased on that $3,000 policy from $39.75 for three years to $57.60 for one year. No change in the risk in either case. Have you got any explanation of that large increase of rate with you? A. Yes. All these are different ways of stating, that in December, 1909, the rate on that building was made $2.40, and previous to that time, ever since January, 1903, it has been 53 cents, or just about one-quarter of that; both rates including what is called a district condition of defective water protection in that district. The explanation is this. The old survey on which that risk was originally rated is no longer in existence. I have reason to think it was a survey inherited from the New York Board of Fire Underwriters, and that the rate until 1903 had been based upon a survey not made for the Exchange, nor made probably upon one of its schedules at all. But it is manifest from the two ratings we have, although I have not the survey of that first rating; this is manifest. There is a building which stands between two brick buildings and has itself a brick front, and the inspector who inspected that prior to 1902, believed it to be a brick building, with a small frame addition in the rear. Now, it isn't anything of the kind. The building has two frame walls of its own, hollow walls of studding, lathing and plastered sides; but standing as it does with brick front between two brick buildings that escaped the examination of the inspector.

Q. You think he inspected it by walking by at the first inspection? A. I think he may have gone inside, but might not have discovered the fact; but careful inspection would have revealed it. In other words, that was rated then as a brick mercantile building.

Q. Pardon me for interrupting you; is this your supposition? A. No, no.

Q. You have seen the original survey? A. Not the survey, but the rating; I have the rating sheet here and map. And while I have not the original survey, I cannot but reason back to the information it contains from the way the schedule was built up. Now, when it was inspected the last time, and that inspection was not created by the Exchange's own volition; it was made necessary because some new tenant moved in, and had to have insurance of some nature, and they had to have a new survey made. We didn't go hunting up an opportunity to rerate it. We had to rerate it for changed condition; and the inspector found the exact construction of the building. He found also that a painter and plumber in there were both using gasoline torches. Whether that was true when the first rating was made does not appear, but if they were used they had not been charged for. The result of finding a frame, instead of a brick building, and these tenants in it, dangerous tenants, both of them using gasoline torches, was to make that rate under our schedule $2.20. And I may add that within ten days, and by request dated November 25th, which is prior, I fancy, to this came to your attention, I have been called upon to rerate that again. A new occupant has gone in there; but I do not see how that rate can be made any lower than it is on rerating, and it may be higher. The only thing deducible from it is that the occupant who was in there got their insurance for seven years very much below what it was worth. And that is the ground of most of the complaints that come to our own office, and probably about the way they arise. It seems that where there is any change in the risk, possibly to the risk itself, it must be an outrage if his rate is raised. Actually it is caused on the part of serious underwriting, from defective inspection, or the omission of some particular hazard in the earlier rate.

Q. Is that risk rated like another building in the same vicinity, of frame and brick, would be rated, with tenants, a plumber and painter in it? A. Oh, yes, exactly. In order to have exactly the same rate it would have to have its location and condition exactly duplicate.

By Senator WAGNER:

Q. What did you mean by a plumber using a gasoline torch; did you mean while he was doing some repairing in there? A. He keeps it there regularly, and uses it in the work he carries on.

Q. There is a plumber a tenant? A. A plumbing shop there. There is a painting shop, too, and the painter has a gasoline torch. Anybody who wants the risk at the rates ought to invest in it.

Q. Do you know if there has been any loss there? A. I do not; I have not looked up the loss record of the place at all.

By Mr. HURRELL:

Q. Do you keep a record to determine the moral hazard, what has been used in the same premises? A. No, we do not. The individual companies have their own record of losses, and in determining whether to accept a risk or not refer to it. But that is a matter for them to determine, whether they will accept it or not. We make no effort, and no rating association ever did, to figure the moral hazard in any specific risk, or its effect as an aggregate factor of the moral hazard on the risk, a class is dealt with, but we never discriminate between two classes because of difference in moral hazards, because most of them do that themselves.

By Senator WAGNER:

Q. In the original rating what was the occupancy at that time? A. The occupants were, so far as we know, the same, except at the last rating it was apparently not affected by the fact that one or both used gasoline torches; that didn't develop on that occasion. Both the plumber and the painter were there on the earlier rating.

Q. You do not know whether the torches were there or not? A. It was not charged for in the rating; that is all we know.

By Mr. HURRELL:

Q. You figure that a plumber always has some gasoline, as a part of his business? A. The base rate of a plumber's establishment takes into account the use of a certain amount of gasoline; it does not take into account the use of a gasoline torch.

Q. Will you look and see if you have the rate sheet there for Nos. 269 to 271 Sixth avenue. I will read you the complaint: "Our case, which we tried to explain in the following, ought to make a valuable illustration of the methods adopted by the above-mentioned combine" (meaning your Exchange), "since several years the New York Fire Insurance Exchange has adopted a so called jeweler's schedule, which makes allowance for the fact that the book of a retail jeweler's merchandise is exposed to the danger of fire practically during business hours only, when it is displayed in show cases and in windows, being in fireproof safes during non-business hours. In this consideration the policy reads: '..... dollars on stock of jewelry including watches, watch cases, watch movements, and diamonds and other precious and semi-precious stones, unset and set, with their mountings, their boxes and jewelry cases, containing the same, while in fireproof safes and vaults, or while in the display of the same during business hours only on the premises occupied by the insured, at thirty cents per hundred dollars.' We were insured under this policy since the Exchange introduced it. The beginning of June, this year" (this being written in 1910), "after our policies which were originally issued on May 1st they were recalled, with the explanation, that according to the rules of the Exchange our risk was not entitled to this special rate; and we understand that the company which had issued these policies were fined for doing so. We still hold last year's policies as proofs of our statement. It is evident from the action of the companies they were willing, even anxious, to take our risk, and would have done so, but that the Exchange forced them to recall the policies, as they were not issued at the rate prescribed by the Exchange. The rate demanded now is $1.43 as against 30 cents in former years. Before the Exchange opened our rate was between 30 and 40 cents per hundred dollars. We may add our record is clear. There has not been a fire in our establishment in over forty years, and only a very small loss about twenty-five years ago except. We have corresponded with the Exchange, and they took it up and replied with a flat refusal to reconsider our case." A. Well, Mr. Hurrell, I have been misled by your statement that the location was at

269 Sixth avenue. That is not the risk involved; that is the address of the main business.

Q. This is a branch of the other? A. That is the address of this man's main office, but his complaint deals with the risk which a manager runs for him in Grand street, and which I recall as having been brought to my attention in July. I did not bring that survey, and I cannot give you the details exactly. But I will say that there has never been a time when the so-called special form for jewelers, covering in and out of safe, at a rate of 30 cents, in non-fireproof buildings has been in the rules of the Exchange admissible on the rate card of a risk not rated on the Exchange mercantile schedule. I have forgotten whether this was rated on the Exchange mercantile schedule at any time, or whether the fact was overlooked and a policy inadvertently issued. I do not remember how the rate card reads on that risk. But I know that in his own risk he had a rate as low as 11 cents for diamonds, uncut, in fireproof safes, and twenty-two cents for jewelry and precious stones in fireproof safes, and thirty-two cents for watches and watch movements in fireproof safes; but that notwithstanding that his rate outside of safes is as high as 94 cents, he has never availed himself of the rate, he has at this location in Sixth avenue and ask that the average of thirty cents be put on it.

Q. What is that average thirty cent rate for? A. To protect jewelers in and out of safes where the provision is they are only out of safes during business hours. He has figured it out that so large a proportion of his value is in safes at twenty-two and eleven cents, that he does not want the thirty cent rate there. Apparently the proportion is different in the Grand street property, and he would like to have it, but under the rules of the Exchange applicable to him and other owners of similar risks, that form is not applicable to any risk not rated on the Exchange mercantile schedule.

Q. Being interpreted, what does that mean? A. It is a little difficult to interpret it, except by its own terms.

Q. I am not captious, but can't you explain a little more clearly why the rate went up from thirty cents to a dollar forty? A. Not having the survey here, I cannot state exactly; that isn't my recollection of the rating last made.

Q. Will you remember it and bring it with you sometime when you are here? A. Yes.

Q. If you remember there was a complaint about this, was there a company fined for issuing insurance in contravention of the rules of the Exchange? A. Not that I know of.

Q. Was it up before a committee? A. I think all that happened was that on the record of a re-rating, because of some new tenant there the rate of premium was rectified, and thereafter the companies did not renew any policies that might have inadvertently been on before. I do not recall of any complaint being made, or any trouble arising from it.

Q. When you are looking for the rate, if you have the information, will you also see whether there was any company fined for issuing a policy; and as to the increase, why the rate was made $1.43 instead of thirty cents? A. If it was at thirty cents it was because he made and filed inaccurately the notice of the jeweler's form, of the mercantile Exchange schedule, of such rating.

By Judge BRUCE:

Q. If a company had written it at a rate not fixed by the Exchange what would have been the penalty? A. That would be in the discretion of the arbitration committee, on a statement of the circumstances leading up to it. The penalty might be the giving of a nominal fine, a small fine, and a prohibition against writing on that risk for another year.

Q. The first thing that happens is they are called upon to cancel the policies, are they not? A. Cancel the policy or correct the premium.

Q. And if a company's rates are not fixed by the Exchange, as soon as it is brought to the attention of the Exchange, they are required to cancel the policy, or to write the policy at the prescribed rates? A. Yes, the rules, and the rates are put there to be observed; and they will be of no use to members unless they are observed.

Q. And they desire to have the rules enforced against themselves. Now, Mr. Robb, is there anything further you wish to add to the record with reference to the New York Fire Insurance Exchange, what it is, what it does, and how it does it? A. I think

very little. I have already submitted to counsel a set of schedules used in rating. If they have not been incorporated in the record, I hope they may be. I have brought a duplicate set, for fear you may have mislaid those already furnished.

Mr. Hurrell: (To Chairman.) Would you like them to be marked as Exhibits, Mr. Chairman?

Chairman Merritt: I think so.

The Witness: I would like to add to those the four forms of inspection, and the survey blank I referred to in my testimony.

Q. Is that a complete new set of schedules? A. That is a complete new set of schedules; also four forms of the inspection blanks.

There are two or three minor corrections in statements made. With reference to the permissibility of rating of term policies on contents of buildings. The correct statement is not that they may not be written at all, but that no allowance can be made from the pro-rated rate if they are written. I think the record does not show I made that statement in that form. Another, with reference to broker's certificates. Perhaps my evidence did not sufficiently bring out the fact that the withdrawal of a broker's certificate is very rare; perhaps half a dozen times a year; and of applications made for broker's certificates. While it is true that perhaps twenty-five per cent to one-third of them do not finally result in the issuing of a certificate. In a great majority of those cases it is because of the abandonment of the request by the applicant himself. Many of them apply for certificates which they find afterwards, for one reason or another, they do not want, and they go on the records as withdrawals, voluntarily.

By Chairman Merritt:

Q. Do you happen to have the records showing the percentage of applications denied? A. Denied as distinguished from withdrawals?

Q. Yes. A. No, I haven't those figures.

By Mr. Hurrell:

Q. Just on that question is it true that a broker has to bring in a certain amount of business — I do not know whether it is in your agreement or not, or I would not ask the question—does a broker

have to bring in a certain amount of business without commission before he can get his license? A. I believe the rule is he has to verify by a certificate from the issuing company, his procurement of two or three policies within the previous year in order to show he is in good faith engaged in the business.

Q. What interests me is, how can you get these two or three policies without getting a license to show that you are engaged in the business? A. The license is not necessary to his writing the business. It is only necessary to his collection of the commission.

Q. I see. That is the point? A. Surely. Nobody prohibits him from writing the business.

By Assemblyman FOLEY:

Q. How far is the Exchange self-sustaining or self-paying? A. How far is the Exchange self-sustaining?

Q. Yes. A. Well, the assessments made on the premium income of its members defrays two-thirds of its maintenance, approximately, and the other third comes from the ten dollars annual fee or certificate charge made to brokers.

Q. How much does it cost a year? A. How much does it cost a year?

Q. Yes; is that made public annually? A. Yes; I have a treasurer's statement here.

Q. Is that in evidence? A. No, it is not in evidence; do you desire it?

Q. Just generally, as a matter of reference? A. The total disbursements for the year ending February 28, 1910, show $208,274.14.

Q. A large percentage of that, I suppose, is the cost of surveys in rating? A. Well, really, the largest single item is the printing of the—well, no; the largest single item is salaries. That includes not only the men in the office, but those who do the inspection and survey work outside. Next to that is printing of rate cards and offices and rents. Those are the three items.

By Judge BRUCE:

Q. And this is a statement of the receipts and disbursements for the year ending 1910? A. For the year ending February 28, 1910.

Judge Bruce: I offer that in evidence.

(The paper referred to was marked Exhibit N in evidence, of this date.)

Q. Now, is there anything else you wish to add, Mr. Robb? A. I think I have covered the detailed statement of the case so far as your questions go, or my desire to furnish specific information has prompted me to volunteer. I want to add only a word about the general subject and the question of legislative action bearing on it, and that is this ——

By Senator Wagner (interrupting):

Q. Before you do that, Mr. Robb, I would like to refer back to this plumber's case in Brooklyn, in which there was an extraordinary increase in the rates after a reinspection, I think. That rerating was, of course—at least the new rate was fixed by the Fire Exchange, was it not? A. Yes.

Q. Now, do you think that if there were some kind of competition in the State of New York, that some companies, of all the fire insurance companies, might be willing to take that risk at a lower rate, in view of the fact that for a number of years the one company, at least, had been underwriting it at a rather low rate? A. Well, the fact is, of course, that all these companies had for nine years been carrying at the Exchange rate below its value, because it was the Exchange rate. If it was an open market, somebody would have made a rate two and one-half times, if not four times, that size, a long time ago. It happened that they relied upon our mistake, or that of the board from whom we took our survey, and took that rate without question for four years, which they would not have done had it been an open market.

Q. If there had been any great loss there that would have been discovered before that time? A. Of course, we can only have on such a risk one loss in several hundred in that period and break even.

Q. There was none? A. There was no such loss.

By Chairman MERRITT:

Q. That is to say, the company that had thoroughly surveyed the risk would not have written at the original rate? A. Oh, no.

Q. There was no kind of competition? A. Nobody who found out the facts about that rate would have ever been foolish to write at the 53 cents standing on their rate card, and it would not make any difference whether there was or not an exchange.

By Assemblyman COLNE:

Q. Is it the general custom of the insurance companies to apply a co-insurance clause in the matter of insurance of furniture to all houses above a single occupant; that is, from two families up? A. Well, the rule requires the attachment of the co-insurance clause to all policies on household furniture in whatever kind of buildings they are found in this jurisdiction, but with a clause added that in case the insurance in force is less than $2,500 at the time of any loss, the application of the clause will be waived. It is only within the last few years that the clause has been required on the contents of strictly dwelling house tenants.

By Mr. HURRELL:

Q. That applies to household furniture losses of $2,500, or under, no matter whether in two family houses of twenty-five family houses, or less? A. Houses involving $2,500, or less, and it does not make any difference whether in an apartment house or dwelling, or what not.

By Judge BRUCE:

Q. And it is only within the city of New York? A. That is true.

Q. That clause is not waived in any policy issued for household furniture in the city of New York? A. It is not required on household furniture policies outside of New York. Generally, there are but few places outside of New York where the co-insurance clause appears, even with that limitation on household furniture policies. It is a difficult thing to apply it in cases of small quantities of household furniture and therefore it is waived

usually, and it is not required elsewhere. It is troublesome in practice, and as matter of fact, the insured is usually well insured on these risks generally.

By Judge Bruce:

Q. The charge for a broker's certificate is $10, is it? A. Yes, sir.

Q. And during that year the income was, from that source, $66,464? A. Yes, sir.

Q. And disbursements in that department last year were $18,265.80? A. Yes. Oh, well, you are cutting out salaries.

Q. I mean that particular department subjected the Exchange to this disbursement of $18,265.80? A. Yes, sir.

Judge Bruce: That is all, Mr. Robb

The Witness: I only want to add this general statement, so far as concerns the need of legislation to correct present practices existing among fire insurance companies. I want to say, in addition to what I said this morning, that in this, as in every other business carried on by corporations, conditions are improving, both because of an improved public demand for better conditions, and a quicker responsiveness on the part of the managers of said enterprises to the demand for publicity. In the Western Union there is a standing committee on publicity. There is the like of that in the National Board, and very recently a distinguished encylopedia editor has established what he calls a popular insurance magazine, on the theory that there is a growing demand for the presentation to the ordinary readers of the topics of fire and life, and other insurance, and that the companies are willing to furnish, and the public desires to read the inside facts about various branches of insurance, to an extent that has not hitherto been true. To a large extent, therefore, such evils as existed from over-secrecy, from undue suspicion on the part of underwriters of what the public attitude will be, on the part of the citizens, of the real purpose and intention of the underwriter — these have been reduced materially, and are being reduced.

Q. If, when legislation is intended affecting either the fire insurance business, or a business situated like it, such an inquiry were habitually made in the Legislature as is being made to this

Committee, and not only the facts, but the temper of mind of the people directly affected ascertained, a good deal of legislation would be left undone, and would certainly be admittedly not needed.

Now, I believe that all corporations are improving in the conduct of their own business. I believe that they are not going to resent any reasonable requirement of publicity or frankness, or showing of the profits made. They may or may not, according to the kind of business in which they are engaged, resent the attempt to exercise State control over what seems essential to private business. That will depend on the character of the business, and the nature of the threatened legislation, but so far as resentment of the inquiry into the conduct of their business is concerned, that has largely vanished, and I do not think that underwriters are open to the charge that they try to maintain undue secrecy, or that they are unwilling to respond to any reasonable demand for full information from the State officials or from the public, and I believe, as I said this morning, in different words, that if the Legislature of the State of New York, and those of other States, would for ten years give anything like the same measure of time and attention toward the reduction of the fire waste that they have in other various misguided ways, given, especially in the West and the South West, to the effort to curb the reasonable activities of fire insurance and other corporations, at the end of that time they would be largely indifferent to minor questions like the expense ratio in fire insurance, and the detailed methods of conducting the business. They would have found for themselves a way of relieving, as far as it can reasonably be expected to be relieved, the heavy burden that the fire insurance tax now constitutes on the people of the State.

By Senator WAGNER:

Q. In what way do you suppose the Legislature could proceed to prevent fire waste? A. Were you here this morning?

Q. Unfortunately, I got in a little late. A. I was trying to answer that question.

Q. Very well, if you did state that, I will read it from the record.

HENRY E. HESS, called and being duly sworn as a witness, testified as follows:

By Mr. HURRELL:

Q. Mr. Hess, how long have you been engaged in the fire insurance business? A. About 40 years.

Q. In what capacity? A. From the beginning?

Q. Yes. A. Well, I started as a clerk out in Indianapolis in a fire insurance office. That was back in 1867, I should say, and then in time I became a special agent, traveled for the companies, and in 1899 I came to New York and became the manager of the Fire Insurance Exchange.

Q. Were you the first manager of the Exchange? A. Yes, sir.

Q. And how long did you continue its manager? A. Until a year ago.

Q. What were you actually engaged in before you came to New York? A. I was special agent for the Connecticut Insurance Company in New England.

Q. Do you remember the needs which brought forth the Fire Insurance Exchange? A. Here in New York?

Q. Yes. A. Well, a very general demoralization in the business — the complete breaking down of rates, and a condition so serious that the companies found it necessary to do something to keep themselves from ruin.

Q. Your company that you were working for in New England, was during the time you were working in New England, doing business in New York city? A. Yes, sir.

Q. So that you knew of your own knowledge as an underwriter the conditions that existed in New York prior to the organization of the Exchange? A. Well, yes; but not by direct contact. I was not here.

Q. You say the business was demoralized. In what way did that demoralization manifest itself? A. Well, in a practically complete abandonment of rates, so that from day to day the rates would go down in active competition, and policies would very often be canceled for reduction of rate, almost before they were issued, because there was a reduction, until finally the rates went almost out of sight. Many companies withdrew entirely from the city; ceased doing business here; could not stand it.

Q. Do you remember how large a percentage of the companies withdrew? Approximately? A. No. I could not tell you that.

Q. And when you state of the rate going out of sight, you mean the rate went down as the result of the rate war to such a point where the companies could not afford to take the business? A. I do, that is right.

Q. And when you say a policy was sometimes canceled even before it was written, you mean, do you, that an insured would take a policy in one company at one rate, and then in another company at another rate, which other company, in order to get that business would make him a lower bid, and he would immediately cancel the first and take the second? A. He would chase back then to the first company and they would immediately make a lower bid, and that is why it is like canceling before the policy is issued. The risk was bound and somebody would come in with a better figure, and then he would go back to the other company and get a still better one.

Q. Now, there had been one or two tariff associations in New York before that time, had there not? A. Yes, sir.

Q. Do you know enough about that, Mr. Hess, to give us their history? A. Why, not in detail. There has for ninety years been—they were not quite tariff associations—but they were combinations of the companies, a local board, or boards in New York. The first was organized in 1819, a society when there were only eight companies here. That was called the Salamander Society, but it was formed because the conditions were such that they felt they must get together and protect their business.

Q. And at various times from 1819 down to 1899, there were tariff associations or boards in which companies were acting in harmony to get a rate? A. Yes.

Q. What was the history of the Tariff Association immediately preceding this demoralization you spoke about? A. Well, more could be told you about that by the manager of that Tariff Association than I could tell you.

Q. Do you know who he was? A. Mr. Reid.

Q. Mr. Reid, of the Suburban Exchange? A. Yes. You see, I have no contact with that at all.

Q. At the time the Exchange was organized was schedule rating known? A. Oh, yes.

Q. Was it applied in this city? A. Yes.

Q. Did each company have a different schedule, or the same schedule with different charges and credits? A. Oh, the association that preceded ours—the Tariff Association—used the schedules and recontinued the use of those.

Q. Well, did the companies substantially cast those schedules aside when they would get to competing with each other for rates? A. Oh, yes, they cast everything aside.

Q. That is, do I understand that where there is a state of open competition between companies for business, that there is absolutely no application of the schedule? A. Well, it ultimately gets to that point. It is simply a wild competition without stopping to figure up any factors that might go into the rate at all.

Q. So that, as a matter of fact, in a state where there is open competition, one risk does not bear the same relation to another risk, as to its rate, as where there is a schedule impartially applied? A. Oh, not at all. I was going to say it is just a matter of who can work the hardest and quickest and cut the rate down.

Q. At that time did the citizens and companies use brokers as much as they do now to place the fire insurance business of the city? A. As far as my knowledge goes, yes.

Q. Leaving this immediate locality for the moment, what other general rate associations are there throughout the country, that the companies and our company are in in various parts of the country? A. Well, you take New England, and it has got the New England Insurance Exchange.

Q. That is a rate body, is it? A. A rate body which makes the rates for all New England, with the exception of the State of New Hampshire, the city of Boston and city of Providence.

By Judge Bruce:

Q. Why not in the State of New Hampshire? A. On account of legislation there.

Q. They have there an anti-compact law there, have they? A. Yes.

Q. And that is the New England association that acted in conference with the State association when the schedules were adopted

which the State association uses in this State? A. No. I do not know of any connection between the New England body and this State at all.

Q. Did you ever hear of a conference of associations around about 1882? A. Yes, sir.

Q. At which the schedules were adopted which are in use in this city outside of the suburban and metropolitan district? A. Yes, sir.

Q. That is the association you refer to? A. Yes; it was referred to by Mr. Jenness, I think.

Q. What other associations are our New York companies in that attend to rating in other parts of the country? A. You have your State association here; there is the Middle Department association, which looks after Pennsylvania and Delaware and Maryland. When you get beyond that you reach a section of the country with which I am not familiar, which is generally known as the South. I am not familiar with the South.

Q. Does the New England Exchange have jurisdiction over the city of Boston, or is that an excepted city? A. That is an excepted city, in charge of the Boston Board of Fire Underwriters.

Q. Now, in proceeding with the organization of the Exchange, Mr. Hess, will you state what theory, if there was a theory, that you tried to work out in fixing the rates? As I understand it, that work was left substantially to you, was it not, when you became manager of the Exchange? A. Well, I should hardly be willing to say that it was.

Q. Well, of course, the Exchange was organized primarily as a rate making body, was it not? A. Yes. The first thing we did was to reinstate the rates which were given of the old Tariff Association; that gave us something to work upon, and that the Exchange did as soon as it was organized, just as quickly as possible we reviewed those rates and brought them up to date by actual inspection and application of schedules.

Q. Was there anything else you had to do on that line? A. Why, no; I think that is all.

Q. In the determination of a base rate, which, as I understand, the scale system of rating, is the certain point upon which a rate

is built up by various charges and credits, after credits deducted and charges added, etc., what was the system adopted by the Exchange in the first instance of determining that base rate? A. That base rate was handed to us by the companies; for instance, a number of base rates were already of record, and we went right on using those. They had been used previously, and any base rate that was not determined would be determined by the rate committee or by the members of the Exchange in consultation. We did not ourselves prepare the data upon which the base rate was built.

Q. What do you understand, Mr. Hess, or what do you wish the Committee to understand from you as an expert, is the meaning of the term base rate; what is it? A. Well, I should say that it is the rate at which a perfect risk, a risk having no deficiencies of any kind, might be written.

Q. And is that the same rate for the various classes, the same base rate for the various classes of business; that is, is it the same idea as that embodied in every base rate of every class? A. The same idea is embodied, but the same base rate is not used in every one.

By Judge Bruce:

Q. How is that determined? A. I have just said that it was given to us by the companies. I cannot tell you how they determined it.

By Chairman Merritt:

Q. What would you call a perfect risk? A. One that you would find no deficiencies in upon surveying it under the schedules; in other words, you would start with this first charge, the base rate, and you would find nothing to add to it, you would find nothing to charge for it; it would simply remain that base rate.

Q. It would be on a property that was regarded as having absolutely the minimum degree of hazard? A. Yes, sir.

Q. I didn't know but what it would be like what they say about the English consols; they are a perfect investment because they will never be paid but the interest will always be paid; perhaps a perfect risk is one that will always pay and never burn? A. It

would be as near that as we might hope to bring anything, naturally.

By Judge Bruce:

Q. Do you know practically how that base rate is arrived at by any company or the Exchange? A. No, I do not.

Q. Is it a deduction from any statistics collected, or is it the judgment of the underwriters? A. To my own knowledge I cannot say it is one or the other. I have said these rates were handed out to us, were handed out to the Exchange to apply as base rates.

By Mr. Hurrell:

Q. Do you know whether the standard for the base rate, for instance, the standard which determines the base rate in this jurisdiction, is the same as that that determines the base rate in the State association under different scales, or in the New England Exchange, for instance? A. No, I do not. I should doubt if they are the same, because I think the base rate here in the city might be made much lower than under the protection that we have, than it would be up country; therefore I think it would differ with the locality.

Q. If there was any difference you say it might be affected by the degree of fire protection there was in the locality? A. Yes.

Q. Have you had any experience with the classification of losses of any company or groups of companies? A. No.

Q. It is a fact, is it not, that a large number of intelligent underwriters believe that a careful classification of the loss experience of a group of companies would assist them materially in determining upon an equitable rate? A. I believe that is the fact.

Q. May I ask what your opinion of the value of classification is? A. Classification as at present conducted, what is called a classification?

Q. Yes. A. I hope that in giving my opinion if you will allow me to go into the record some statement of what that classification is, that is to allow me to make some explanation.

Q. Make yourself clearly understood. A. Classification as made now is what I would call a directory classification; it is

simply a classification by the names of the classification classes; I do not think that that properly takes care of the factor of fire hazard at all. Now, if you permit me to illustrate: Suppose this were the City Directory and we have a record, we secure a record from day to day of all the premiums that are paid and all the losses that occur, and we put into this directory opposite the names of the parties the premiums they pay and the losses that are paid them. At the end of a year you have in this book the total of the losses and the total of the premiums, and to that extent you will have in the total — you will be able to show the ratio of the one to the other, but the moment you start on the Smiths or the Joneses or the Browns will you be able to make any intelligent deduction as applied to the Smiths or the Joneses or the Browns? I do not believe you will. Now, change that. I have simply given it to you as dealing with the names of the people; change them to the names of the risks and enter this information as against the names of the vocations. You get into that so many different features of hazard in connection with each particular kind of vocation that I consider the classification of very little use. It is useful only in giving you a general idea of what your experience has been in that line, but I do not believe you can get such fixed factors that you can produce useful results or safe results. They are changing all the time, and the number of variables that you have to deal with is so great that I don't see how you can reconcile them.

Q. I gather from what you said a few moments ago that you could conceive of a classification that would be useful. Have you any such idea of a different classification than by vocations? A. I wish you would tell me what you gathered that from.

Q. From your general language; possibly I thought you were going to apply it that way; but isn't that so, do you believe that a classification can be made up in any other way so as to be useful? A. I believe this, that if it can be done it will have to be done upon the basis of measuring the degrees of hazards in risks rather than to deal with them by names of vocations; in other words, you will have to have classes of degrees. You will have the 10 degree risks, the 15 degree risks. Let us assume a scale from a thing that won't burn, like pig iron under water, or a planing

mill at the top, and if it was put into any scale you would place that in the 212, that would be the boiling point perhaps, but you will have to make up your classes in along that scale somewhere, as to degrees of hazard, not as to names at all, because you could have a dwelling house, what would be called a dwelling house, that would be in such bad condition that it would be a worse risk than perhaps a very clean manufacturing establishment would be. You could easily have it, and yet you would enter one as a dwelling house and you would enter the other as a factory, under the present method of doing the work, I don't think you are measuring the right thing.

Q. Will you concede that if you could get to an ideal classification even along that line, that the result of the experience of all kinds of insurance companies and individuals doing an insurance business at the end of say a five year period on the different classes was subdivided, that that experience would be useful in making up the rate for the next succeeding year at the end of a cycle of years? A. I would concede that, but I would rather make the period ten years instead of five.

Q. Of course the purpose of making that period ten years is to get a proper average by taking in the good and bad years? A. To get your experience.

Q. Now, from your experience in all of these years dealing with these problems, do you think it is possible for such a classification as you have outlined to be made up, that is, to have any standard into which you could classify all kinds of risks by the degree of hazard rather than by the character of occupancy, etc.? A. No, only to the extent that anything is possible, but it would be a work of enormous difficulty. I would concede the possibility, but I think it would be enormously difficult to do.

By Judge Bruce:

Q. You know there is a very general complaint that so-called preferred risks bear more than their burden of the premium necessary to do the entire business; in other words, that there is an improper classification, that there is a continuous complaint you will find in regard to that. Can you give us any information or any way in which that could be righted so that each risk would

more nearly bear its just proportionate part of the entire loss? A. The hammer and tongs way would be the way to readjust the rates of these preferred classes. If they are bearing too much they ought to have less rates.

Q. How could that be determined as to whether or not they are bearing too much? Doesn't the very fact that they are called preferred risks indicate they are bearing too much? A. Well, it certainly conveys that impression. I don't know how you can get at the inside facts except by getting at the inside experience of the companies.

By Mr. Hurrell:

Q. So that the dwelling house business, for instance, if the experience of each company was contributed to the rate making body for instance, upon dwelling house business, the rate making body could make an estimate as between the losses paid plus the expenses and the premiums received, to determine what the proper rate for that class ought to be? A. It ought to be able to do that, yes.

Q. And that is not done at the present time, is it, in any rating association that you may know of? A. No, I don't think what I would call the inside factor is given to the association.

Q. Will you not concede that that would help a rate making body if that information were given to it when that body comes to the making of the rate? A. Well now, that depends on what you mean by helping the rate making body.

Q. I mean help the rate making body to put forth an equitable rate? A. Rate making bodies that I am familiar with are bodies maintained by the companies themselves; and consequently are the companies themselves. Just how would it help the companies themselves to do this?

Q. I take it from what Mr. Robb has here testified to in relation to the making of rates that the only way the companies contribute their experience to the rate making body is over a table or in a consultation room where one manager says off hand, we have had a bad experience in that class, in discussion, and another one says, our experience is good, and they talk around and finally agree upon some mutual ground where they think the

rate ought to go, and they put it there, and there has been nothing contributed? A. Did Mr. Robb say that? I was not here.

Q. No, I was summarizing his statement. I supposed he was absent, but I know I am creating a record here; that the sum total of it was that the companies did not contribute the record of their experience to this rate making body? A. That is right.

Q. Now my inquiry is if the companies did contribute this record, could not the rate making body have something more definite to work on than the mere verbal experience? A. Undoubtedly.

Q. The next question follows, why don't they do it if they are seeking to put forth an equitable rate? A. You want me to answer that?

Q. Yes, please. A. You ask the companies, please. I don't know. You must remember, speaking for myself, I was paid to do certain work, and I did it with the materials furnished, and it was not for me to go to them and ask for other material. I took the clay that they gave me and made the best bricks that I could.

Q. If you can imagine yourself away from that duty and managing a large company with the principle that you want to deal justly by the public, what would be your attitude as a member of a rate making body; would you advocate that that be contributed and put before the committee, or would you say it is better policy to withhold it and use judgment instead? A. I would be in favor of every other fellow giving that information. You have just put me in the position of a company officer?

Q. Yes. A. I would be in favor of every other fellow giving me the benefit of that information, but I would not want to give him the benefit of my information if I could help it.

Q. And will you answer why? A. Well, because you go to any business man of age and experience, suppose you are a young man just starting in business, and go to him and ask him to tell you all about what he has learned in the business so that you can start even with him, and I think he will tell you, young man, you will go through the same process I have to learn the business. I think any of these companies would be glad to tell you what the unprofitable classes are, they are perfectly willing to do that, and tell each other what the unprofitable classes are, but they

like to keep rather lowly on the subject of what the profitable classes are; they prefer to keep their own experience to themselves; in other words, they are not in business entirely for the sake of the public.

Q. They are a money making institution as a matter of fact? A. They are in business just as any other concern is in business.

Q. When you are confronted by possible legislation, and an insistent public, that says the combination of fire companies results in a maintenance of a rate, and we think the rate is unjustifiable on this, that and the other class of property, how can the companies withholding that information because it may benfit someone else, how can they answer the public that their rate is just? A. Well, you see they withhold information which nevertheless among themselves they have a consensus of opinion about. Now, there are plenty of businesses or professions, if you please, in which there is a common understanding that there shall be a minimum price for a fee. The architects have regular price lists for their services. I think there is a fee bill for physicians, I think there is. I think it is no uncommon thing for real estate men to agree upon a certain table of fees that they charge for their services. These men have the same interests in coming to a common figure as to the value of what they furnish the public; they know if they make it unreasonably high that it will attract competition that would cut it down. I think they are subject to the same laws of trade that other concerns are. I cannot see myself the close corporation act in this that so many see.

By Senator Wagner:

Q. It would not be so in the case of fire insurance companies, however, because there a rate is agreed upon; there is no competition as to the rate? A. Anyone can charge more than the rate, you know; their rates are all minimum rates. Anybody can charge more if they choose; they are not tied down to the rate; they can go above it.

Q. Not so as to get any business if they charge more than the rate fixed by the Fire Exchange? A. Oh, yes. You will be surprised to know how often conditions here justify the company

in charging more than the rate, and saying we will take a small line at that rate, but it will be more than the published rate.

By Mr. Hurrell:

Q. That is in the extra hazardous classes? A. That is where the congestion is so great maybe that it is difficult to get a line and they can get more than the regular rate for it.

Q. Do you regard the fire insurance business as a public business in the sense that the public has any rights to demand that an exorbitant profit be not made in the business? A. Well, I never have quite seen the reason for this large outcry about the profits that were made in the business. Profits that are made on the underwriting side are not exorbitant. I don't think they have ever been exorbitant. I think Mr. Whitney has shown that very plainly very recently. It is only on the investment side that some companies are able to show larger profits than others.

Q. Do you regard the money that the public pays for fire insurance in the nature of a tax? A. No.

Q. You have often heard that referred to by underwriters and company managers? A. Yes; I don't see in what it is a tax. A tax is something levied for the benefit of government, as I understand it. This is not levied for the benefit of the government; government has nothing to do with it. If the government conducted the insurance business and then made certain rates, you might say that it was analogous to a tax, but there is no enforced payment and then no man need—any man can go without insurance if he chooses.

Q. So that you place this business in your mind in the same line as you would place any other money making institution? A. Banking, merchandizing, anything else. I cannot see the difference except that they won't say that we are engaged in commerce.

Q. The courts won't say that? A. They won't concede that.

Q. You are acquainted, are you not, with the general trend of the times which leads government to prevent combination in certain lines, the purpose of which is to maintain a price or a rate? A. A price or a rate for a commodity or a product, yes; not for a contract.

Q. Don't you believe that because the insurance companies maintain the attitude that they must combine necessarily to protect themselves in a close corporation so that each one will collect just the same rate on a given thing that the other collects, and so that they ought to be let alone for the public good in that combination, don't you think that in return for the privilege they ask, which is a different privilege than that accorded to other businesses, that they should respond to the public demand for quite close supervision and regulation to see that the price is not excessive? A. They get it.

Q. How? A. Is there any business supervised more closely than the fire insurance business except as to this feature of rates, perhaps?

Q. But that is just the point; that is the point of the inquiry? A. Oh, upon that point?

Q. Yes, of course they are supervised to test their solvency and to see that they obey the Insurance Law. A. I concede the point that you make there in your question, that in return for this right or privilege they ought to give as full publicity to their rates—shall we limit it to rates?

Q. Yes. A. As may be asked for.

Q. Wouldn't you go a step further than full publicity, and say that they ought to give an equitable rate to each class of property? A. Undoubtedly.

By Judge Bruce:

Q. Would you go still further than that and say that there should be some governmental agency to which the assured might appeal in the event that he deems that the rate fixed was excessive? A. Well, no, I would not, because I think that governmental agency would find itself flooded with a lot of querulous, groundless complaints. You never find the great big insurers coming to the government for help; they have their competent men to look after this thing. It is simply small people who look upon it as if they were being imposed upon, that it ought to be given to them. If it was given to them for practically nothing, it would still be an imposition. Just why, I don't know. It is a singular attitude of men; I discovered it in adjusting losses in the field.

The whole attitude was one of prejudice at once; yet I don't know any business that disburses as much money, such vast sums of money, with so little absolute proof and upon so little exaction, as the fire insurance business.

By Mr. Hurrell:

Q. I wished to go a step further in my question and ask you if you concede that you ought to give full publicity and give the public equitable rates, if it ought not to also have information which it could give the public, to show the public that the rates were equitable? A. Well, the one goes with the other, it seems to me.

Q. The difficulty, as it seems to me, if you will permit me, is this, that now there is nothing which the Exchange can say to any class of owners as to the property in any given class; there is nothing the Exchange can tell those owners in answer to the question, is the rate fair, to prove to the owners that the rate is fair, and that that particular class is not being discriminated against in favor of another class? A. As between the members of that class they can always show that the rate is fairly made.

Q. That is true, because you have got your scale, but as between classes is that true? A. Then we have to go back to the respective base rates of those classes and there we, the rate making people, have to stop; we simply say, there is the base rate that is given us; we cannot prove it.

Q. To go back to your ideal classification, will you not concede, possibly you have conceded this, that the base rate ought to be fixed upon a proper classification so that one class would know that it was not paying the losses of another class? A. Proper classification of what?

Q. Of losses, of the loss experience, the comparison of the money paid in losses and paid in expenses, and the premium income? A. I tried to explain to you that a classification based upon mere names of the risks or vocations or occupations did not and would not ever, in my opinion——

Q. I understood you fully, and then we discussed this ideal question? A. I have extreme doubt as to the possibility of bringing that into existence.

Q. Then, as I understand your position, it would be this, that if we could show that as between members of a like class that there is no one individual discriminated against, but when you ask for an experience of a whole class it is impracticable to produce the proof? A. That is to show the experience of everybody, that is, the most of the companies upon that class.

Q. Upon a given class, yes? A. I have never been able to do that.

By Senator Wagner:

Q. Mr. Hess, what remedy has a citizen if, for instance, this combination fixes a certain rate, a citizen feels that that rate is absolutely unreasonable and too high, and the company simply sits down and says that is our rate, what remedy has the citizen under the exising law? A. I don't know what remedy he has under existing laws. I don't believe that a reasonable man is put in that position. We get just such things as were brought up this afternoon, things that cannot be readily understood at first glance, but we find a reason like the case of a man who for eight or nine years has enjoyed a rate he should not have had; that was a lucky thing for him.

Q. In other words, either the man has got to go on his experience or accept the rates of the Fire Exchange. There is no governmental body that can step in and say, we will look over this rate and see if it is exorbitant? A. No, there is not, so far as I know.

By Chairman Merritt:

Q. They take the position that this it not public service business and therefore no person can compel them to give insurance. You can compel a public service corporation to give you service along any line; they must put in a telephone; they must put in electric lights; they must give you water. There is no provision at this time that a man may compel an insurance company to give him insurance, and I think when you come to discuss the question of an appeal on the part of the insured, just take that fact into consideration; if he could compel insurance he must certainly be

given a place where he could discuss the propriety of the rate which he was going to compel the company to give him who were going to write his insurance? A. Yes, you know he never is denied this information so far as it is possible to give it to him; he may still be dissatisfied. Very likely he will be.

Q. Taking the illustration which you gave of the directory as I got that, and I may be right about it, your position is that if you had that story for three consecutive years on any basis giving the fire loss and taking the names of the people or the character of the risks or any of the hazards involved, it would not be the same story twice; a second year might give the same total fire loss, and yet the story of the losses would be entirely different? A. Entirely different distribution of the factors.

Q. If you could compare it to a composite photograph, it would be an entirely different proposition to look at; if you could have each loss represented by a picture or composite picture of the whole at the end, it might be an entirely different looking person at the end of each year and yet occupy the same space so far as the loss is concerned? A. Yes.

Q. Or if you compare it to the effect all alone of force representing the final resultant of all these elements it would point possibly in an entirely different direction from year to year, so that it is difficult or impossible from your standpoint to make classification along these lines. Now, I am very much interested in this question as to what degree a business like this that has become a necessity is in fact a public service business. You draw the distinction clearly between a commodity and a contract. I think I follow you in that. At the same time that contract has become one of the essences of businesses; everybody must have insurance or else they cannot get it. There are many cases where it is enforced, not by any legal provision, but by the conditions of business. A mortgage on a property requires it, and credit requires it, and leaving out of sight the people who are wealthy enough to insure their own property, if they have a loss they don't like it any better than anybody else, I suppose, but Mr. Hurrell has covered this ground as well. I would like to cover it more from my standpoint. You have a contract which has become a necessity. Now, if it is purely a matter of commodities, we do

not undertake to regulate the price of salt and feed, nor do we let the people who deal in them organize to maintain prices; it is against public policy. Now, this business is either one or the other. If it is in no sense a public service question, there is no reason why we should attempt to interfere with it, but the people who do it must not combine. Now, if the reasons why they must combine are strong enough so that you concede the propriety of the rate making body of some need, it seems to me pretty nearly logic that they may be regulated, and the degree is one of good business judgment and practice, and might carry with it rights and powers which are not now the rights and powers of the corporations. For instance, you take the public service business as represented in the lighting business. The Public Service Commission has broad powers to regulate rates and enforce services, but a company in a restricted territory that can show that it is giving good service at fair prices may not be subject to competition. That is a very substantial advantage which the law gives the corporation doing that kind of business. Now, that brings us back to that other proposition. If it were agreed finally that the dealing in these contracts was in essence a public service operation and it was deemed necessary in some way to control the making of rates or to have a board of arbitration, where a rate might be discussed, what other and further rights than the companies now possess ought they to be given, if any? It would be a very interesting consideration. And we have got to think this thing out if we can on some basis or other and reach some conclusion or other about it before we get through, and I just suggest that line of thought as one that men who know as much as you do about the insurance business might very well have under consideration as something, if not present to-day, that is in the course of being considered, and as possibly a way of doing away with the friction which exists between even the small man as an insured person and the big corporation; or to put it broadly, between the public and the people engaged in this particular line of business? A. I do not think that the people engaged in this business want to increase that friction. I think they would be very glad to do anything they can to reduce it; but I submit that the very fact that in the 250 years that fire insurance has been in vogue—let

me see if I am right—no, it is not as much as that—about 1667, I think was the beginning of fire insurance, say 250 years—that if the companies in the active competition which they have one with another, had never been able to find a safe way to live except by getting together, there probably is not any other way. Now, it may be, it might be found for us in this country; it has never been found anywhere else; they have to get together.

By Judge Bruce:

Q. Mr. Hess, this is a peculiar contract, this contract of insurance, is it not; it differs from almost every other contract, in this respect, that the underwriter in the end or the underwriters are all policy holders, are they not in a given company, they pay the losses, do they not, and pay the expenses that is, in other words, it is an assessment? A. Why, if you want to put it that way.

Q. Isn't that a matter of fact? Here is a company that pays a loss to-morrow. Who pays that loss? That loss will be evidenced in the rate of the company. The loss is in fact paid by every other policy holder in the company; and if I hear the fire bell ring out there and there is a fire, and the Home Insurance Company has a policy covering that risk and I also have a policy in the Home Insurance Company, I, in effect, and all other policy holders in the Home, pay that loss, isn't that true? A. Yes.

Q. And the company itself is a mere agency by which this contract is written and the relationships between the different persons who are assured are worked out? A. I think that that would be true of a mutual company, but I do not see how it can be said of a body of men who put up their own capital and undertake to conduct this business, and say to the public, now if you are pleased with the security offered, we would like to do business with you and for you.

Q. Your rate of premium is based upon your experience as to what the loss will be, and your rates are apportioned to each risk according to its degree of hazard? A. Theoretically.

Q. Theoretically, and practically in the end each assured pays his proportionate loss of all the assured, and in that way it is a very peculiar contract; it is not analogous hardly to any other

contract than I know of? A. Can't you say that of any corporation that receives moneys from the public and renders certain duties to the public, and say that it is acting for the entire public just the same?

Q. It may be true that it is acting for the public.

Senator WAGNER: Then we come close to a public service corporation.

Q. The very thing I had in mind. I drew many of my ideas in relation to that from Mr. Dean's book on rating. Mr. Dean is pleased to call it a tax. A. Doctors disagree apparently.

Q. He is a very eminent doctor, isn't he? A. A very eminent doctor; very able indeed.

Q. I just wanted to get your ideas because I recognize you as a very eminent doctor also. A. You are very complimentary. I don't claim to be so also; I am a very modest student compared with Dr. Dean I assure you.

By Mr. HURRELL:

Q. I want to ask one other question, and that is whether in response to the Chairman's suggestions there are any further powers or privileges of which you could conceive that fire insurance companies might take on in consideration of, if you please, a stricter regulation of their rate making powers? A. No, I could not answer that question.

Q. As I understood the Chairman, he was thinking? A. Yes, I heard it.

Q. You have nothing to suggest in reply to that suggestion? A. That would be a very large matter to think over.

Chairman MERRITT: The Committee stands adjourned until 10 o'clock to-morrow morning in the Aldermanic Chamber.

Adjourned to Wednesday, December 7, 1910, at 10 A. M.

TWENTY-SIXTH PUBLIC SESSION OF THE LEGISLATIVE INVESTIGATING COMMITTEE.

ALDERMANIC CHAMBER, CITY HALL.

NEW YORK, *December* 7th, 1910—10 A. M.

Present—HON. EDWIN A. MERRITT, JR., *Chairman.*
HON. ALEXANDER BROUGH, *Vice-Chairman.*
HON. ROBERT F. WAGNER.
HON. WILLIAM W. COLNE.
HON. FRANK L. YOUNG.
HON. VICTOR M. ALLEN.
HON. JAMES A. FOLEY.

HON. M. LINN BRUCE, *Counsel.*
ALFRED HURRELL, ESQ., } *Assistant Counsel.*
ISIDOR J. KRESEL, ESQ., }

Chairman MERRITT: The Committee will be in order.

Mr. HURRELL: The schedules and forms for use by inspectors referred to by Mr. Robb in his evidence yesterday are now offered in evidence.

(Admitted and marked Exhibit O to O-31, inclusive.)

The same will be found in the volume of exhibits.

Judge BRUCE: I will call Mr. Toppan.

ROLAND W. TOPPAN, called as a witness, being duly sworn, testified as follows:

By Judge BRUCE:

Q. Where do you reside? A. Newburyport, Massachusetts.
Q. What is your business? A. President of fire insurance

companies. Excuse me one moment; I shall have to ask the Chairman for a little leniency; my eye sight is very poor. I can scarcely see anything, if in looking up any note or anything of that sort I am slow, I will ask the Chairman to excuse it.

Q. And what insurance companies are you president of? A. The Arkwright Mutual Fire Insurance Company, and the Paper Mill Insurance Company of Boston.

Q. Are those companies both what are known as mill mutuals? A. They are.

Q. Will you give the Committee a history of what the mill mutuals do, how they are organized, and how they do it? A. The first one was organized in 1835 by Mr. Zacariah Allen, of Providence, Rhode Island, he built a mill which he thought was a better mill than had been ordinarily built and was a better fire hazard. He applied to the stock insurance companies in Providence for a rate. They told him they had one rate and only one, and that that was about two and a half per cent on a cotton mill. He said he thought he ought to have a better rate on account of his improvement which he had made, and on account of construction and so forth, but they would not give him any. Then he says, I will see what I can do about organizing a mill mutual company, and they organized a manufacturers mutual fire insurance company in 1835. They went on from that time to about 1860, most of them, the mill mutual companies organized between those dates. They charged originally about nine-tenths of one per cent on a cotton mill, and on woolen mills, and paid back whatever might be not absorbed in the annual losses and expenses, which for the whole period has averaged probably somewhere from seventy-five to eighty per cent of that.

Q. Cotton mills and woolen mills are among the most hazardous of risks? A. They always have been among the most hazardous of risks.

By Chairman Merritt:

Q. You mean that the expenses including losses took about seventy-five per cent of what was collected? A. About twenty-five per cent, and they returned about seventy-five.

Q. I did not know which way it was? A. That was before the

days of what we call the equipment for protection. That was when they had really nothing except buckets of water, and the simple protective — no apparatus at all. It went on up to about 1850, when other companies were organized, and the rates remained about the same, the dividends averaged about the same; that is the cost of insurance was about twenty-five per cent of the rates charged which on cotton and woolen mills were about nine-tenths of one per cent.

By Judge Bruce:

Q. And how did that compare with the rate charged during that period by the old line companies? A. They were very much less. The old rates way back in those days charged by the old line companies were on cotton and woolen mills from one to one and a half net, with no return. The rates in the mutual companies continued about nine-tenths for several years longer until they did have several losses in woolen mills when the rates on woolen mills were put up generally to about one and a quarter per cent, and one or two of the companies declined to insure woolen mills any longer; they thought the hazard was greater. Then there began to come in through the efforts of some of the men engaged in the mutual business a little more protection, in the way of getting up some rotary pumps, and some simple, rather inefficient, steam pumps, and in a few cases what are known as perforated pipe sprinklers, in Lowell, for instance. The rate on the woolen mills gradually dropped back; losses were less, and they got back to about one per cent; the improvements in protection and in construction, which were called for by the managers of the mutual companies at that time, it was practically in the hands of one man, Edward E. Manton, of Boston, began to show themselves, the value; they insisted upon better protection, and as I say they did get up some simple forms of steam pumps, rather inefficient, and a simple form of rotary pump; no sprinklers except in Lowell. The business has always been — from that time on the protection has gradually improved and increased, automatic sprinklers now being almost universal in all manufacturing buildings and in all storehouse buildings, and the net cost has been reduced, so that now in the last year the ratio of loss was only about three and a half cents on $100 of insurance; the ratio

of expense was about one and a half, and the ratio of taxes this year will be quite as much as the ratio of loss was last year. The taxes this year will cost us more than our losses have been so far this year. The business has always been carried on in the simplest form, in the least expensive manner possible. We have never paid any commissions; have never had agents in any place except simply in one case to sign policies; in another State we do not even have that, simply appointing the Insurance Commissioner an attorney to accept service. We never have employed any legal counsel to any extent. We do not have any man to represent us, any legal counsel to represent us in Massachusetts, I can speak surely, either in the legislative bodies, and have not had anywheres else, so far as I know. Our expenses, even legal expenses, have been almost nil, from the very beginning; our adjustments have always been acceptable to the assured, and in all that period of seventy-five years there has never been an appeal to the courts to adjust any loss or to collect it from any of the mill mutual insurance companies. In one case that I knew of there was an appeal to the courts to decide how the adjustment of the loss, the payment of the loss, should be distributed among the parties interested, but there was no question as to the amount of the loss, and there never has been in seventy-five years' experience any appeal to the courts to settle any loss or make any adjustment.

Q. How many of these companies are now doing business within your State? A. I think there are about twenty.

Q. And within how many States are the companies of which you are the president licensed to operate? A. Two.

Q. What are those states? A. Rhode Island and South Carolina.

Q. What percentage of mill property in the State—Rhode Island, and what is the other State? A. South Carolina.

Q. Take the State of Rhode Island, what percentage of the mill property in the State of Rhode Island are covered in what are known as Mill Mutuals? A. I have no statistics, but I should say certainly ninety per cent, perhaps ninety-five per cent of the manufacturing, what we would call each class of manufacturing property ——

Q. Which are? A. Cotton and woolen mills, machine shops, paper mills, although there are no paper mills there to amount

to anything; the mills of good construction and good protection, I should think ninety to ninety-five per cent.

Q. How do the rates now charged by old line companies upon such properties in your State compare with the expense of insurance in the companies with which you are connected? A. Where they come into competition with us, or we in competition with them, in most cases they have reduced their rate so that they are not much in excess of ours.

Q. That has been a result of the development of the companies of the character of those you are connected with? A. Yes, sir.

Q. Can you give me any concrete instance of the reduction which have been brought about by the organization of the Mill Mutuals? A. I will give you one instance within my own personal knowledge. There was a paper mill, which for the time—this was in about 1874, or 1875—a paper mill in Massachusetts which for the time had rather a large paper mill and called for more insurance than the Mill Mutuals at that time were able to carry. The treasurer of the mill gave the insurance into the hands of Mr. Manton, who at that time was president of the Boston Manufacturers Mutual, to place as much of it as he could in the mutual companies, and arrange the balance in the stock companies. I was in that office at the time and had a broker's license, and he asked me to go out on to the street and place the insurance on that cotton mill, the excess insurance. I went into the offices of several of the principal companies at that time, they were mostly Boston companies, which since have all disappeared twice since that time, and the rate charged by the Mutual Companies was one per cent. Mr. Manton says, you tell the stock companies that we will pay the same. I went into the office of the Franklin Insurance Company, I remember, and the Boylston Insurance Company; they were prominent companies at that time. I asked them if they wanted a line on that paper mill. They said, at what rate? I said, one per cent. They said, "Toppan, you know that our rate is two and a half per cent on a paper mill." I said, "I know it; I paid you two and a half. I have got your policies now at two and a half, but this is a building of a better character, a very clean mill; the management is first class. The Mutual Companies are going to write it at one

per cent. They will carry what they can." I don't remember the exact proportion. "If you want a line at the same rate net, the Mutual Companies are paying their dividend out of that one per cent, you can have it at one per cent." They hesitated a good while and finally they said, "Well, Manton is a sort of king in that business, and I suppose we have got to take it;" and they wrote it at one per cent, where the old previous rates they told me had never been less than two and a half. The treasurer of that mill told me within a week that the stock companies would write his mill, had offered to write it for twelve cents, and he thought possibly for ten cents on $100.

Q. That was before the days of rating associations and organizations, was it not? A. No, I think they had same rating even at that time in Boston. I think I have an old tariff book that dates back as far as that.

Q. There is a reduction by reason of the competition of the Mill Mutuals of from one dollar down to ten or twelve cents? A. It was a little different from that. It was a reduction in the first case from two and a half to one and then from one down to .12.

Q. Really a reduction from 2.50 to .12? A. Yes, sir.

Q. Now, what proportion of the mills in your State are protected by the automatic sprinkler system? A. I should think almost 99 per cent of the mills.

Q. And what has been the experience of mill owners with reference to the practical operation of sprinkler systems in case of fire? A. Thoroughly successful.

Q. That is true not only in mills, but also in storehouses? A. Also in storehouses. I think we have made as great a reduction, or brought about as great a reduction in warehouse and storehouse properties as we have in the mill properties. I have paid myself, when I was in the Boston office, as we call it, one and a half per cent on warehouses in Massachusetts containing cotton, and it was rather difficult to get the insurance then. The stock rate was gross figures. They paid no dividend. It was one and a half. We write that same insurance now in that very same storehouse which I have in mind, it has been sprinkled since, but we write it at forty cents, and have paid back ninety-four or ninety-five

per cent of that. What the stock companies would write—I don't know exactly their rate, but it practically competes with ours.

By Chairman Merritt:

Q. Do they install any external automatic sprinkler systems at all to take care of the outsides of buildings? A. They do in some cases; wherever there is what we might term a conflagration hazard, or a hazard from even an adjoining building or a building nearby, but that is not very common; but almost all warehouses, practically all warehouses in our mill properties are protected by automatic sprinklers. The whole theory of Mutual Companies has been from the time that protection began to be installed that every risk, every property should be able to take care of itself in case of fire in itself or in the neighborhood, and that has been developed, the importance of that in a great many cases, particularly in Paterson, in the conflagration at Paterson; the Mutuals had several risks you might say in one end of Paterson which were thoroughly protected, had pumps of their own, fire pumps of their own, as well as the public water, and sprinklers. They did not have sprinklers outside in that case at all. Those mills were on fire from time to time all day long the day of the conflagration, but by their own apparatus, without help at all from the city fire department, they saved the mills, and ran their pumps all day long, and saved them, and we suffered no loss at all.

Q. Well, isn't there now a gradual extension of the automatic sprinkler system, not only in mills and warehouses and mercantile establishments, but to other buildings as well? A. Oh, yes, certainly there is. You will find mercantile establishments all over the country, large ones, are practically all protected by automatic sprinklers, and retail establishments.

By Chairman Merritt:

Q. Are those automatic systems pretty much covered by patents? A. Why, not now, no. The patents have run out, and there is nobody—the field is practically open to anybody. Of course, there is supposed to be, almost all of it is supposed to be in the hands of a combination of manufacturers.

Q. There is nothing to prevent any plumber from putting it in if he knew enough? A. If he knew enough, and could get the

sprinkler heads, automatic heads. It requires a great deal of skill to manufacture them properly, so they will operate properly.

Q. Do you have any system of inspection for these mills, from the standpoint of the insurance companies, at all? A. We inspect all our mills every three months.

Q. When you discover what you regard as a defect or a hazard, why, you have authority to impose upon the company and practically compel them to make such changes as you think ought to be made? A. We do.

Q. That is, you can cancel the policy if you want to? A. Otherwise, we will cancel the policy. As a result of that, we have a better report from what we call our regular inspectors, who make inspections every three months on all risks. A poor report came into my office last week, and I arranged to have one of our engineers visit that risk yesterday to see whether that report was justified, and what was necessary to be done, and what makes that necessary, and to bring it to the attention of the—the managing man in most of these companies is the treasurer—to bring it to the attention of the treasurer. I know in that case that is all that is necessary. But in some cases we cancel the policy; but that is very rare.

Q. You do not do boiler insurance? A. I do boiler insurance.

Q. Do you get a copy of the reports of boiler inspectors? A. No.

Q. On the poor installations in these various plants? A. No. I have in my office—there is a mutual boiler insurance company—and if there is anything that is very unusual, they tell us of it.

Q. You have a way of getting the information if you want it? A. If there is anything that is very unusual, yes. Of course, they do not insure or inspect all the boilers of all the mills that insure, but they do a good many, particularly in New England, and they give us information sometimes which is of a great deal of value.

By Judge Bruce:

Q. And do you give a different rating for each mill, depending upon the kind of protection it has, and the kind of hazard? A. No, I can hardly say that. We have different ratings, but the

range is very large. We bring the protection up where we want it, so we make the risk as near equal as we can, and we have a small range of rates.

Q. Well, do you start with a base rate and on that build up? A. No, we haven't any base rate; we haven't any real base rate on which we build up at all.

Chairman MERRITT: You are not very scientific then, you are practical?

The WITNESS: We try to be practical. We know pretty nearly what every class of risk costs us, and we try to bring the protection up to our standards so that the rates do not vary very much.

Q. And are based upon your experience? A. Are based upon our experience, which we make up largely from our tabulations.

Q. What is the cost, speaking generally, of the establishment or installation of an automatic sprinkler system in the ordinary mill? A. Do you mean a certain area, or per area?

Q. Of a certain area? A. Of course the mills vary very much.

Q. I want to get upon the record whether it was a very expensive system, or whether it was comparatively inexpensive, in comparison with the amount of area covered? A. Why, it is inexpensive. A gentleman, who perhaps could give you more information than I can, told me last night that they had installed in one particular locality, I think it was 56,000 sprinkler heads, with the other apparatus which went with it, and that they saved — they figured that they saved the cost of that installation in two years in the premiums, from what they would have had to pay without the protection. And that has been proven a number of times. It came up some years ago when we were urging protection, when they were not protected as they are now, that they could save their cost of installation in about two years, and they did it in a great many instances. I know that to be a fact.

Q. Do you collect and preserve schedules, showing your experience in losses on different classes of risks? A. I do in my company. I do not know whether they all do or not.

Q. And use that as an aid in fixing the proper rate to be put on any given risk? A. As an aid, yes, but it is not the primary basis on which we make our rates, but it is an aid.

Q. Now, Mr. Toppan, it is the desire of your companies to extend your field of operation into other States, say the State of New York, and to be licensed to do business here? A. Why, if the conditions were such that we could comply with them without using too much of our capital, we should like to do it.

Q. What would you suggest by way of conditions? A. In the first place, that we should not make any deposit. We don't make it anywhere else, and we don't want to make any deposit here, of our cash funds. That we appoint no agent, except the insurance commissioner, as attorney, to accept service. In that case we pay no commissions. We don't pay any commissions anyway. And that the cost isn't increased. We don't want to increase our cost of doing business in a general way. We pay our taxes in one lump sum, whatever taxes may be assessed upon us. That should be in equity a tax on our net premium, after we have returned what is not absorbed in losses and expenses. In South Carolina that is two per cent on our net taxes. We pay that in one lump sum to the State Treasurer, on which we are licensed to do business.

Chairman MERRITT: You did not mean your net taxes, you meant your net premium?

The WITNESS: Beg pardon.

Chairman MERRITT: I think you misspoke yourself; you said two per cent on your net taxes.

The WITNESS: No, no, net premium. That is, after we have returned what has not been absorbed in losses and expenses.

Q. What tax do you pay in your resident State? A. One per cent on our premiums.

Q. On the gross premiums? A. On our gross, yes.

Q. Are there other mutual companies, resident in other States, licensed to do business in the State of Rhode Island? A. We are licensed to do business in the State of Rhode Island, yes.

Q. Well, are there companies organized in other States licensed to do business in the State of Massachusetts? A. Yes, there are.

Q. What conditions are imposed by the State of Massachusetts upon such companies? A. Their rule is to impose such conditions as are imposed in the home States of the companies entering, or wishing to enter. If they charge two per cent in these States, Massachusetts charges the same.

By Mr. Hurrell:

Q. Do I understand the rule to be, Mr. Toppan, where the State of New York, for instance, requires a deposit of $200,000 for their mutuals, that the State of Massachusetts, under that law, would require a deposit of $200,000 in the event that any State of New York companies desired to go into Massachusetts? A. I do not think so. I think that only applies to the taxes imposed.

By Chairman Merritt:

Q. Your business comes to you, you do not seek it? A. Our business comes to us. We have no agents, no solicitors, and pay no commissions. It comes to us and always has.

Q. It appeared yesterday in the matter of boiler insurance that people who are insured in that sort of insurance, as a rule, care more for the inspection than they do for the protection? A. Undoubtedly that is true.

Q. Isn't that pretty nearly so in your own case? A. Yes, I have members tell me that they don't care very much for the insurance anyway, they want the inspection, and they wanted our inspection; practicularly in some of the southern mills.

Q. Your inspectors are practical engineers and builders? A. Practical engineers, and practical men. We have a few practical mill men, but most of them are institute of technology men. The Mutual Boiler Insurance Company of Boston, whose office headquarters are in my office, is carried on largely by the mill mutual men, simply for the inspection.

Q. What do you pay those men? Stated salaries? A. Stated salaries.

By Judge Bruce:

Q. What are the amounts of risk carried by the two companies of which you are president? A. The Arkwright has about $265,000,000 at risk, and the Paper mill, about $29,000,000.

Q. How long have these companies been in existence? A. The Arkwright Company was organized in 1860, and the Paper Mill, I haven't the exact date.

Q. Approximately? A. Later than that. It is comparatively a young company. In 1886 the Paper Mill was started.

Q. Have many of these companies been organized in the State of Massachusetts and gone out of existence during the time your companies have been in operation? A. I have never known one of them, and there never has been one, to go out of existence. Massachusetts and Rhode Island are really the home of all these companies. Rhode Island was originally. I have been connected with the Mill Mutual system since 1873, and there never has been a company go out of existence. Not only that, they have never made any assessment, and most of them have paid very large dividends in all that time. There may have been one or two cases where they passed it for a year or two, but only a few.

Q. No assessments have been levied? A. No assessments have been levied; no company has ever failed or gone out of business, or been called upon by the Commissioners of the State to make good.

Q. What has been the experience of your company with reference to litigation over losses? A. Never had one; never had any litigation. None of the mutual companies,— none of the mill mutuals had ever had any litigation on a loss.

Q. None of them have gone out of existence; none of them have paid an assessment; none of them ever had any litigation? A. No.

Q. And the system has been in vogue in the State of Massachusetts for how many years? A. In 1835 the first Massachusetts company was formed.

Q. And now they cover about 90 per cent of all the mill risks in the State? A. I should say so. I do not think I am out of the way when I say 90 per cent of all the mill risks. That, we qualify, of course, there are a great many risks we look upon as poor risks, that are not qualified, but all the large risks that are well built, I should say 90 per cent, and I don't think I am out of the way.

Judge Bruce: Anything further, Mr. Chairman?

Chairman Merritt: I do not think of anything.

Judge Bruce: That is all, Mr. Toppan.

The Witness: Mr. Chairman, Mr. Freeman reminded me, two companies went out of existence, but they reinsured their business; simply for consolidation; there was no failure or anything of that sort.

Q. For liquidation? A. Just simply for liquidation, and they paid dividends.

Edward V. French, called and sworn as a witness, testified as follows:

Judge Bruce: Mr. Chairman, Mr. Joseph P. Gray, who is the President of the Boston Manufacturers' Mutual Fire Insurance Company, at the request of Professor Whitney, has prepared a history of the mill mutuals in the State of Massachusetts. I wish to offer it in evidence at this time.

(Received and marked Exhibit P, as follows):

Exhibit No. P.

BOSTON MANUFACTURERS MUTUAL FIRE INSURANCE CO.

31 Milk Street, Room 61.

Joseph P. Gray, *President.*

Francis E. Robinson, *Vice-President and Secretary.*
L. H. Kunhardt, *Vice-President and Engineer.*
John B. Seward, *Treasurer.*
H. Dwight Hall, *Assistant Secretary.*
E. F. Robinson, *Assistant Treasurer.*

Boston, Mass., *September* 17, 1910.

In reply to yours of the Aug. 29th.

Albert W. Whitney, Esq.,
Actuary, Legislative Investigating Committee,
55 *Liberty St., New York, N. Y.:*

Dear Sir:

I trust you will pardon me for the delay in giving you the data which you asked for in your letter of August 29th, the same having been due to absence from the office and pressure of other work.

A book might be written on what the factory mutual companies have done not only in reducing the fire waste, but also in demonstrating that the business of fire insurance can be carried on at a minimum of cost. I will try and give you in as few words as possible a brief history of the companies, their operations and what they have accomplished.

History.

The first factory mutual insurance company was organized in 1835 by some of the manufacturers of Rhode Island. The second company was organized by the same people in 1848. The system did not make much growth until the year 1850, when the manufacturers of Boston and vicinity met and formed the Boston Manufacturers Mutual Fire Insurance Company, from which time the system advanced by leaps and bounds. Later on other companies were formed, as per following list, which gives, besides the name of the company, the date of its organization, amount of insurance carried on January 1st of this year, and also the premium account at the same date.

1835	Mfrs. Mut. F. Ins. Co. of R. I.	$104,235,453	$801,197 07
1848	Rhode Island Mut. F. Ins. Co.	137,074,418	1,052,459 20
1850	Boston Mfrs. Mut. F. Ins. Co.	302,678,072	2,236,508 69
1854	Firemen's Mut. Ins. Co.,	165,376,706	1,251,455 44
1855	Worcester Mfrs. Mut. F. Ins. Co.	102,955,160	754,373 75
1858	State Mut. F. Ins. Co. .	197,955,160	1,523,985 26
1860	Arkwright Mut. F. Ins. Co.	243,963,024	1,781,141 89
1868	Blackstone Mut. F. Ins. Co.	122,926,369	938,314 79
1870	Fall River Mfrs. Mut. Ins. Co.	92,807,119	700,479 43
1871	Mechanics Mut. F. Ins. Co.	71,405,342	552,668 86

1873	What Cheer Mut. F. Ins. Co.	$53,164,681	$452,251 77
1874	Merchants Mut. F. Ins. Co.	63,999,820	493,149 17
1874	Enterprise Mut. F. Ins. Co.	58,385,391	454,670 36
1875	Hope Mut. F. Ins. Co.	49,871,257	435,770 15
1875	Cotton & Woolen Mfrs. Mut. Ins. Co.	54,999,962	482,297 96
1877	American Mutual Fire Ins. Co.	58,386,441	454,674 45
1880	Philadelphia Mfrs. Mut. F. Ins. Co.	46,951,600	403,626 32
1886	Rubber Mfrs. Mut. Ins. Co.	52,132,052	457,862 12
1887	Paper Mill Mut. Ins. Co.	26,355,434	196,340 58
		$2,004,987,071	$15,423,227 26

Cause of Organization and Object Aimed at.

Just previous to 1835 one of our progressive Providence manufacturers had, after a great deal of difficulty, equipped his mill with fire protection in accordance with the best advice obtainable. His principal object in doing this was to protect his mill in such a way that the danger of an interruption to his business by fire would be at a minimum. Afterward the thought came to him that having his mill better protected than that of his neighbor's he should obtain a lower insurance rate. He applied to the proper authorities and was turned down. This fact, together with the difficulty which he had experienced in obtaining good advice in regard to protection, led him to organize the manufacturers of Rhode Island and form the first company. The Boston Manufacturers and other companies were formed on the same basis and with the same idea. Later on all the companies joined together for mutual inspection service, the intent of which service was to furnish our members with the best advice regarding the

construction, protection and care of their mills, for which purpose a corps of experts were organized and a thorough inspection service installed.

Inspection Bureau.

The Inspection Bureau was first organized by the Boston Manufacturers Mutual Fire Insurance Company, and for many years they paid the whole expense of same, furnishing the other companies with free service. Later on the other companies were admitted to a share in the management, and the cost of the Inspection Bureau distributed *pro rata* over all. The Inspection Bureau is now divided into four departments:

1st. That of *Special Inspection,* which department is made up of expert engineers of different kinds, including civil, hydraulic, mechanical, electrical and chemical engineers. These men are at the service of our members at any time to advise with them on any subject desired. I will also add that the services of these men are in great demand to advise with outside people in regard to improvements in their property which will reduce the fire loss. We do a great deal of this work for missionary purposes.

2d. *Regular Inspection Department.* This consists of a corps of skilled men who make inspections of all of our members' plants once in three months. They advise with the management in regard to the care of the plant, apparatus, etc., and make general recommendations for improvements. Their reports are submitted to the owner of the plant with the request that they give them consideration; the result being that the officers of the companies have, through these reports, a complete knowledge of the condition of the plant and how it is cared for.

3d. *Plan Department.* In this department we maintain a large number of draftsmen whose business is to make complete plans of all of the plants which we insure, these plans showing the buildings, their occupancy and protection, thus furnishing the officers of the companies with complete information as to the physical characteristics of the risks. From this department nearly all of our regular inspectors are recruited.

4th. *Laboratory.* This department is maintained for the purpose of testing different protective devises, materials, etc., and is considered to be one of the most thorough departments of the kind in the world.

It is true that in the Inspection Bureau our greatest work is accomplished; hence we do not hesitate to spend money freely in that bureau. We believe that money so expended is well spent, as it tends to reduce the fire waste.

Automatic Sprinkler.

The Factory Mutual System is the father of the automatic sprinkler. This protective device was invented about the year 1875. As soon as it came to the attention of my predecessor, Mr. Atkinson, he had a thorough investigation made of its possibilities and became convinced that it was a necessity for the protection, particularly, of our large mills. He had it first introduced into the more hazardous parts of our cotton mills, such as picker rooms, where its efficiency was quickly demonstrated, after which other parts of the mills were equipped. The introduction of the automatic sprinkler was a very slow and difficult process, due first, to its being an untried piece of apparatus; second, to its expense, and third, to the opposition of the officers of the stock insurance companies of that date. When Mr. Atkinson first took up the automatic sprinkler he tried also to get the officers of the stock companies interested, but their reply was that it would never be a success because of the expense of installation, and, if it was, the result would be their premium accounts would be reduced. Mr. Atkinson's reply was that in his opinion the sprinkler was a necessity and would remove largely the gambling feature of insurance, bringing the same down to a business basis. Later on Mr. Atkinson's opinion was thoroughly proved and to-day there are no more enthusiastic advocates of automatic sprinkler protection than the present officers of the principal stock insurance companies.

Reduction of Fire Waste.

I know of no better proof of what has been accomplished by the mutual companies in reducing the fire waste than the results

shown in the table contained in the latter part of our last annual report, copy of which I am enclosing. In this table is given the ratio of loss to amount of insurance written for each year and the gradual reduction in fire loss will be noted. This table should be divided into three parts:

1st. From 1850 to 1875, inclusive, a period during which our mills were unequipped with automatic sprinklers and before we had as complete knowledge as we have at the present day, of best methods of construction and protection. During this period the average yearly fire loss was twenty-five and twenty-nine one-hundredths (25.29) cents per one hundred dollars ($100) of insurance written.

2d. From 1876 to 1895, inclusive, which covers a period during which our mills were being equipped with automatic sprinklers and other protective devices. Better methods of construction had also been introduced with the result that the average yearly fire loss for this period was eighteen and ten one-hundredths (18.10) cents per one hundred dollars ($100) of insurance written.

3d. From 1896 to 1909, inclusive, covering a period when our mills were practically fully equipped with automatic sprinklers and during which our methods of inspection had been brought to their maximum efficiency, the result being that the average yearly fire loss for this period was four and two one hundredths (4.02) cents per one hundred dollars ($100) of insurance written, a result which has been obtained by no other system of insurance in the world insuring like property, it being borne in mind that cotton mills were formerly considered the most hazardous kind of property to insure.

COST OF DOING THE BUSINESS.

I state in the early part of this letter that the Mutual Companies have demonstrated that the business of insurance can be carried on at a minimum of cost. This is shown by the fact that at the present time our expense ratio is five and one-half (5½) per cent of the gross premium, whereas, the average expense of conducting the Stock Insurance Companies is very nearly forty (40) per cent, of the premium. When this statement is made our friends of the

Stock Companies answer that our ratio of expense is to the gross premium while theirs is to the net. This is true. Hence the best basis of the cost of doing the business is to the ratio of the amount of insurance written, on which basis the cost in the Mutual Companies is about four (4) cents per one hundred dollars ($100) of insurance written, whereas, that in the Stock Companies, as shown by public statements, averages over forty (40).

Through our methods of reducing the fire loss and also keeping the expense of doing the business at a minimum, we have been able to reduce the average cost of insurance on cotton mills from two dollars ($2), which it was before the mutual companies were organized, to less than seven (7) cents per one hundred dollars ($100) of insurance written.

As stated above, I am enclosing a copy of our annual report which gives very completely in the tables in the latter part of the same, the business done by the company year by year since its organization in 1850. As the results of all the companies are practically the same, I know of no better document to illustrate what has been accomplished by the mutual companies in reducing the fire waste and cost of conducting the business.

I am also enclosing a sheet on which is given the business in detail done by each company in the association for the year 1909. I am also sending you in a separate enclosure a pamphlet issued by my predecessor, Mr. Edward Atkinson, on the fiftieth anniversary of this company. This book while written in a rather egotistic vein is yet interesting showing what has been done in the mutual companies for the reduction of fire loss. Mr. Atkinson also wrote many other articles on this subject but I think practically full information is contained in the pamphlet which I am sending you.

Very soon after the first of each month we publish a report of all fires which have occurred during the previous month. A copy of this report is sent to all our members in order that each one may have complete information as to fires which have occurred in the plants of their fellow members. This report of fires frequently brings to the attention of our members the fact that they may or do have similar conditions in their own plants which may cause trouble, with the result that they are remedied before the trouble occurs.

This letter is rather lengthy but I think it better to send it on to you as it is. If I can be of any further assistance to you in regard to the operations of the factory mutual companies kindly advise me.

Yours truly,
BOSTON MANUFACTURERS M. F. INS CO.
J. P. GRAY,
President.

P. S. The mutual companies maintain no agents and pay no commissions, their business being done wholly in the States of Massachusetts and Rhode Island where they are located.

J. P. G.

Enclosure: Annual Report. 1909 sheet. August Fire Report. Pamphlet in separate enclosure.

By Judge BRUCE:

Q. Where do you reside, Mr. French? A. At Lynn, Mass.

Q. What is your business? A. Vice-President and engineer of the Arkwright Mutual Fire Insurance Company.

Q. Of what particular department of the work of the company are you in charge? A. Very largely the engineering of fire protection.

Q. Now, will you give me a statement for the record, for the benefit of the Committee, of the working of this department of your company; what you do and how you do it? A. The whole basis of the mutual association, mutual insurance companies, is a study of losses, and the devising of means to prevent them.

And going in on this method, and treating the fire hazard and insurance both. The insurance business was mainly the fixing of rates so that in any period of time the rates collected would be the losses and the profit to the stockholders. With the formation of the first mutual company, about 75 years ago, a new method of treating the fire problem was formed. That method is to study the fire hazard in every case, and after that study, and from experiences of fire losses, apply such remedy that the fire hazard will be very materially reduced.

Now, beginning in 1835. As has been explained, the apparatus at that time, the means of extinguishing fire was very limited, but even in those days intelligent study of the fire hazards, and the awakening of interest on the part of mill managers to that hazard, and the creating of a very careful system of inspection through their mills, and very careful system of watch service at night, resulted even before much, if any fire apparatus for extinguishing fires, in very much, very appreciably reducing the fire losses. Then coming along from that period down to about the year 1850, at that time the perforated sprinkler came into service, and for the next 20 years was introduced in many mills. Now, that perforated sprinkler came in this way: It was found in high mills, for instance, or in some of the more hazardous parts of the mill, that if a fire started it was difficult to extinguish it with simple hose streams from a pump or perhaps by water supply, although there were few in those days, without making a very heavy loss. So that the perforated sprinkler was put in; pipes were run over the ceiling of the rooms in which there was a special hazard, small holes drilled in those pipes, and when a fire occurred in a room, water was turned on, and that room was filled with a shower, fully equal to a heavy summer thunder shower, and the fire was immediately squelched. That method was applied in many mills, and saved considerable losses. Then, as the system went along it was found, for instance, that in the preparing departments of cotton and woolen mills, where the raw stock is handled in a loose state, that one of the most serious hazards that any insurance company must meet, exist. We, in order to meet that, instead of condemning the whole risk, or making the whole plant carry a very high rate of insurance, that dangerous process, which was a small percentage of the whole plant, was simply isolated in a small building cut off from the remainder of the mill. That is, the original picker rooms were put outside, and that itself was a large factor in keeping losses down, and is an instance of the method of treating a loss by intelligent study. Then as matters progressed, mills became larger, greater hazards from faster machinery occurred, and losses tended to increase, and methods of providing fire construction and water supply were

increased; also, better pumps provided. And the first real step in the development, the steam pump, was perfected, and even in those mills themselves it would furnish water at a high pressure, whereas the older pumps, being driven by the water wheels, and were frequently operated in an inefficient manner. Then broadly, we took up and carried the development up to the year about 1875 or 1880, with the large mills protected simply by some fire pump service, some hydrants in the yard, generally a stand pipe carried up through the towers of the house, and hose at each landing, so that it was not necessary to bring heavy hose lines up the stairways of four or five story mills, but so they might be quickly got at in any story, and the more hazardous parts to put in the protection of perforated sprinklers, in quite a number of cases, but not generally, not throughout. In those days it was found, as an example of the distinct development in construction, that the old-fashioned roof, which was usually of a steep pitched type, often with an intermediate floor, making what was called a top-loft, was a very bad feature, if it got afire. It was inaccessible, away above the ground level, and usually when those roofs got afire they would burn off. That led, in the early days, to the making of a standard type of roof, flat plank roof in which no concealed space fire could lurk, and with everything accessible so that fire could easily be washed out. That one simple development in construction probably has saved a great many thousand dollars of losses, because it often happened if the roof got well on fire, the mill itself was destroyed. The fire got away from the apparatus available. So those few typical cases show that the study of fire protection, even without very much apparatus, produced very beneficial results, and was distinctly an advance over the method of simply trying to make the rate fit the hazard, and this because the whole aim was to reduce the hazard.

Now, in about 1875 the first automatic sprinkler was invented, and its use came very rapidly; it was very rapidly put into use. The automatic sprinkler, if I may briefly explain, is placed over the ceilings, throughout the ceilings of the various rooms, supplied with water by a pipe system. The pipes branch through each bay in a mill, connected with the riser pipe which brings water to these sprinklers. The valve in the sprinkler is controlled by a fusible

solder, melting at about 160 degrees Fahrenheit. If the temperature in the room rises to that point, the solder melts, the valve opens, and instantly a deluge of water is thrown on the fire.

Q. That usually takes place right over the spot where the fire starts? A. That takes place where it starts. That sprinkler is on duty, nights, days and Sundays, and whether the building is full of smoke or not, and it is where the fire is, as you state, that is the point where the sprinkler opens

Q. Hasn't experience shown that in a large majority of fires, not more than one of these sprinklers have actually went into commission? A. Yes, generally, there are only two or three. The great majority of fires are controlled by very few sprinklers. The automatic sprinkler did not meet with favor at the start in a great many minds. Its expense was considered a handicap to it, and I think, without question, the pushing of the mutual companies made the automatic sprinkler the feature that it is to-day. Their action practically lead the leading manufacturers of the country to put in automatic sprinklers; and results were so successful that their use spread, and the automatic sprinkler to-day is perhaps the largest factor in our whole fire protection era in bringing about the present very low cost of insurance.

Q. Without mentioning them, how many different practical systems are there in vogue? A. There are perhaps six or eight different types of automatic sprinklers. The system of laying out pipes, etc., is of course, common to all. The original system was developed on the basis of bringing in sufficient pipes to supply all the sprinklers that were likely to be opened. And that itself is a good example of the work of the mutual companies, for in order to develop that system, they would recommend a pipe of size sufficient to be efficient, with economy. Very elaborate experiments were carried on by the mutual companies to obtain the friction loss in pipes, and the other information necessary to make a complete and scientific schedule for sprinkler sizes.

Q. Are those automatic sprinkler systems adaptable to structures other than those used as mills, warehouses, and mercantile establishments; I have in mind, for instance, hotels, theatres and even churches? A. They are very commonly adopted, very much, to work of that kind. I think the best example possible is the Old

South Meeting House in Boston, which from its historic value is absolutely,— could not be replaced if it were destroyed. Some years ago, the trustees asked me to advise them on a few electrical matters. They said they were very much afraid they might have a fire from some of their electric wires. I told them they might, but that was only one of about a hundred causes of fire, and they had better spend their money to prevent any fire, rather than to prevent one single one; of course, they had better prevent that one, anyway. I advised them to put automatic sprinklers into that building. It seemed to them very radical at the time, but after some argument, and showing them what we were doing in other lines, they asked me to lay out a complete system for the building. And that building is provided with automatic sprinklers in every corner, including the main auditorium, where those ancient historical exhibits are, and way up to the very top of the tower, where you will see the old white pine hewn timbers of 200 years ago.

Q. At what expense? A. Why, that was a few thousand dollars; I don't remember the figure. In a general way, the expense of protecting a manufacturing property is from 3 to five per cent of the value of the property; and that expense is usually entirely recovered in two or three years by the saving in insurance cost, after which a man has it entirely to the good.

By Chairman Merritt:

Q. Did they insure the old South Church? A. The mutual companies do not; no, sir. It is in the center of Boston, and the mutual companies do not go into the severe conflagration districts.

Q. I take it, they have that property insured in the stock companies? A. I think so.

Q. You do not know what concession they got in rates on the sprinkler installation? A. I do not, but some material concession. But their chief aim in that particular case was the preservation of a building that could not be replaced, historically.

By Judge Bruce:

Q. Well, it is adaptable, at least, say, in hotels, and large boarding houses, to those portions of the building where fires usually

start, for instance, in the room where the heat is generated, and in the place where the cooking is done? A. Yes, sir.

Q. And in the restaurant part? A. It is specially adapted to such places. And in connection with the insurance of mills, we sometimes cover tenement houses belonging to a mill, and in such cases almost invariably require that any large building, like an assembly hall, a general store, such as you will find in some of the Southern cities, a church or schoolhouse, have sprinklers; in the main room of stores, in the schoolhouses the hallways and basements, and especially closets that are out of sight.

By Judge Bruce:

Q. And it is likewise equally well adopted to theatres or large auditoriums where great crowds are apt to assemble? A. I have no question but what the sprinkling of the stage end of theatres would save the terrible catastrophes similar to the Iroquois fire at Chicago where several hundred people lost their lives.

By Chairman Merritt:

Q. Do you know whether any authority, municipal or otherwise directed the installation of any apparatus of this sort in public buildings or elsewhere, any fire marshal, State or city? A. The city of Chicago had an ordinance at one time that required some sprinkling of theatres. I think it was never enforced. I think in general those orders — there are very few of them.

By Mr. Hurrell:

Q. Do you find yourselves in very serious competition with the stock companies composing the Factory Insurance Association? A. In a way; yes. They have adopted the same principle of action, namely, the study of hazards and the providing of protection, and by doing that they can bring the losses on a selected group of properties low, and do make rates — that is, they make rates that bring the net cost about the same as our own cost.

Q. Do you know whether the organizations of the mutuals directly tended to perform that branch of the stock companies

business? A. We have always thought that was the general cause of the creation of that method.

Q. I suppose the mill mutuals commenced to take away the business from the stock companies, and the stock companies commenced to figure how to get the business back, and the Factory Insurance Association followed. Is that your understanding of the reason for that organization? A. I think that is so. I think they felt — in some later years it was the feeling of the larger stock companies that they should have a part of this selected factory business which the mutuals up to that time largely had control of.

By Judge BRUCE:

Q. Do I understand you to say that the cost of installation is about five per cent of the cost of the construction? A. The average cost will run from three to five per cent of the total value of the manufacturing property; buildings, machinery and contents.

Q. How would that proportion run with reference, take, to one of our large school houses here in New York, where there are thousands of children every day? A. Why, I should think it might not vary a great deal, possibly, from five per cent; perhaps a little less where conditions were favorable, because in a large school house you would usually have public water supply available, which would save some cost. We frequently in our isolated mills have to provide entirely our own water supplies, and some of our larger mills have private water supply equal to that of a good sized city.

Q. Now, will you give us your experience with reference to the effect upon rates of the installation of the automatic sprinkler system? A. The automatic sprinkler system will usually reduce the rates — we usually reduce the rates, well frequently, to a tenth of the cost before the sprinkler was put in.

Q. To about one-tenth? A. Frequently.

Q. Well, now, in your experience with the installation of the automatic sprinkler systems and their effect upon fire, would it seem possible that a great catastrophe, like the recent one that

happened in Newark, could possibly have occurred, if the laws of the State, or the ordinances of the city had required the installation of such a system in such a factory? A. The chances of it occuring would be extremely small. The only chance, I should say, would be that the protective equipment, by negligence, was out of commission.

Q. That is, if it were in commission and in perfect working order or perfect order of operation, such an extensive conflagration never could occur? A. Practically impossible.

By Mr. Hurrell:

Q. That is, on the floor where the gasoline took fire in the Newark fire, the action of the sprinkler would have been to have gotten at the point right there? A. It would, and it would have so checked and delayed the fire that undoubtedly practically all of the people would have gotten out.

By Judge Bruce:

Q. That is, under this system whenever the fire starts, this system hits it at the start, and at the point of the start? A. Absolutely; yes, sir.

Q. Now, what suggestions have you to make, if any, to the Committee with reference to the placing upon the statute books of the State requirements that in factories, hotels, theatres, large boarding houses and other places where a great many people are at work or assembling, the automatic, some automatic sprinkler system? Do you know of any State that has any such law? A. I do not know of any that has such. It is a little difficult offhand to say just what the State perhaps should require, but I have no hesitation in saying that the intelligent extension of the sprinkler equipment into many such places would immensely reduce the fire loss and very greatly safeguard life.

Q. Well, all of these systems are patented, are they? A. No, sir. Practically to-day there are no patents of any moment in the fire protection field. It is old enough now, so that that feature is gone, and that never was very much of a factor.

By Mr. HURRELL:

Q. That is, there was no monopoly which gets an excess price for the sprinklered equipment? A. None due to patent conditions. You never can entirely prevent different concerns in installing fire equipment when combining, possibly under some conditions, to hold up prices, just as any other business organizations combine. But in general the field is sufficiently open, so that that cannot go beyond a certain limit.

By Judge BRUCE:

Q. Now, the company that you are connected with,— are they desirous of extending their fields of operation to the State of New York? A. I think so, if the conditions of entering the State would be such as not to increase the cost of the business. If I may add, the fundamental principle of mutual insurance was the obtaining of the insurance at cost, together with studying the fire hazards. The business is not a business for the making of profit for anybody. The amount collected from the factory owners are simply sufficient to give a proper amount of money to pay any probable losses. At the end of each year all of the money left after paying our losses and expenses, goes back to the manufacturers, proportionate to the amount he has paid in, and he gets his insurance at cost.

Now, anything which increases the cumbersomeness of our business, makes any unnecessary work, red tape, increases the cost of insurance without doing anybody any good, and we should feel that any restrictions, any law which made it necessary to increase the cost in that way was detrimental, and would be a deterrent of entering the State. But if the method of entering could be such that this business, which is a business not for profit, could go on, I think our company and allied companies would be very glad to enter.

Q. What would you suggest as proper conditions to impose? A. Our general feeling would be something like this:

First, that no agents be required in the State, because in our method of doing business it is not necessary to have local agents, and they increase the cost. That is the only objection, other than the insurance commissioner, to receive service, if necessary.

Second, that there should be no deposit of funds required. To do that would increase cost again without in any way increasing stability. That there should be — the tax should be on the net premium; not on the gross, and should be collected in a bulk sum, so that it could be paid in a less troublesome manner and with less bother. Well, from our standpoint it is not material, but in order to have some sort of a fence to control the thing, I suppose it would be desirable to require that no company should be admitted unless they had a certain amount of risk. We have thought that possibly five million dollars was a reasonable amount. It insures a company of sufficient size to have some stability; and that there should be a certain amount of funds available beyond the unearned premium, say $50,000. I think that was our idea as we were looking it over — $50,000 above unearned premiums.

Q. Are those the conditions imposed by the State of Massachusetts upon companies from other States desiring to do business in the State of Massachusetts? A. Those are substantially the conditions. I think the amount of funds, net or cash premium, or cash on hand, assets, is larger than that in Massachusetts.

Q. Well, it would be equally fair to impose the same conditions here as are imposed in Massachusetts. It would not, at least, be unfair? A. Well, to that in one way, yes.

Q. Well, the tax in the State of Massachusetts is imposed upon gross premiums? A. Yes; yes, sir.

Q. Why should not they be so imposed here as a condition? A. The feeling is this: The companies are organized in Massachusetts, have their headquarters there, and that method of taxation has been fixed there where the companies have their headquarters. Now, when it comes to the entering of other States it is the feeling that the tax should be on the net cost of business, rather than the gross, as the really only true basis. The Massachusetts method is one that was established long ago and perhaps cannot be very well considered now, but starting anew and putting it on the basis of what it should be, why it seems that all fairness should put it on the basis of the net cost. The excess amount of money collected for premiumes is purely collected as a fund to have on hand as a safeguard, and has nothing to do with

the operation of the business, and the business, being a business done without profit, should not be taxed that other way.

By Chairman MERRITT:

Q. In other words, you think the system in Massachusetts might be improved, but it is the system? A. Why, as I am in New York, I might say yes.

By Mr. HURRELL:

Q. That is, what you are advocating amounts to a request for the same treatment to be accorded the mutuals on the question of taxation that is now accorded the stock companies? A. Yes; that is the idea, sir.

Q. In that your net cost of insurance is the premium paid for the protection. The premium paid for protection in stock companies being the premium which is paid and no part of which is returned? A. Yes. In order to put the mutual companies on the same basis, why they should pay simply, and what is really, the actual premium which they retain, just as stock companies pay. The other method taxes the mutuals very much more than a stock company would be taxed for the same service.

Q. What is your company, Mr. French? A. The Arkwright Mutual Company.

Q. How many States is it licensed to do business in? A. Two.

Q. Rhode Isnand and —— A. Rhode Island and South Carolina.

Q. Does it not do business in Massachusetts? A. Well, it is organized there.

Q. Oh, it is organized there and is doing business in Rhode Island? A. Has entered in Rhode Island.

Q. The South Caroline taxes, the words being, I believe, on the net cost of insurance. Is that not true? A. Yes, sir.

Q. About what should the rate be if the tax were on the net cost of insurance, so that the burden would fall equally upon the stock and mutual companies? That is, how much on the net? That is, not how much on your gross premium, for instance, as Massachusetts figures it now, but how much of a percentage on the gross premium would equal about the tax which the stock

company pays upon its premium, do you know? A. Well, not offhand, but in a general way, about one-tenth.

Q. About? A. About one-tenth of one per cent.

Q. About one-tenth of one per cent on the gross would about equalize the two systems? A. Approximately. That I should want to figure a little more.

Q. Do you know how your tax ratio — what relation that bears to your loss ratio? A. Yes, sir. I have that right here somewhere. Well, on the basis of last year's business, and last year was a favorable year, possibly a trifle better than the average, but not much, the expenses of the business were about three and one-third cents per hundred dollars at risk, and the taxes last year were about seven-tenths of a cent. The losses were one and one-half cents per hundred dollars. The taxes will now be considerably larger on account of the United States corporation tax, which did not come in very much last year; only in partial form.

Q. Have you any chart showing the steady reduction of rates as between your companies and the stock companies? A. Well, not perhaps exactly between us, but here is a chart which shows in diagram form the cost of insurance per hundred dollars for the first ten years when the company was organized; for the second ten years; the third ten years, and fourth and fifth ten years, making up the whole half century, and showing that in the early days this cost was somewhere around thirty-three cents per hundred dollars, and has been brought down for all classes to about seven cents per hundred dollars, due to the result of the study of fire protection, and the extension of the best fire protection equipment.

Judge Bruce: I offer this in evidence, Mr. Chairman.

(The paper so offered and identified was marked Exhibit Q evidence.)

By Mr. Hurrell:

Q. The mutual companies by their home States are required to keep, the same as the stock companies, the unearned premium fund as a liability, are they not? A. Yes, sir.

Q. Now, as a matter of fact, collecting more than ninety-six cents substantially than is necessary to pay the cost of his insurance, your unearned premium fund, as a safety fund, is far in

excess of the unearned premium fund in a stock company? A. Yes, sir.

Q. For the reason that in that fund is almost — well, I do not know what the percentage is — but considerably more money in the fund than would be there if you just got in the first instance the net cost of insurance? A. The factor of safety is very large, perhaps ten, to twelve, to fifteen.

Q. And every mill mutual company, even though they do collect that large excess in the first instance, keeps religiously that unearned premium fund figured on the gross premium collected? A. Yes, sir.

Q. And undoubtedly that is the reason why you urge that no deposit law should be put upon the books the same as the stock companies, when they always do carry that very large fund in the unearned premium fund? A. The mutual companies, you mean?

Q. Yes. A. Yes, sir.

Q. You would have the present mutual law for the admission of foreign mutuals of this State changed so as to take out the provision requiring that such a company have on deposit with its home State at least $200,000? A. We would, yes, sir, desire that taken out.

Q. As I understand, you would have the excess of the unearned premium on the gross premium — some other standard, if a standard is thought necessary, of at least $50,000 in clear assets above the unearned premium fund? A. Yes, sir.

Q. And do you know whether, if that treatment were accorded the finances of a mutual company, whether the standard of solvency would be about equal as between the mill mutuals and the stock companies? A. Why, I should say that the mutuals would have a very much larger factor of safety in comparison to their losses even then than the stock companies.

Q. If the standard of inspection were kept up? A. Yes, sir; on the business being conducted on the methods which I have described.

By Judge Bruce:

Q. Coming back for just a single question with reference to the sprinkler system, what has your experience been with regard to

their practicability in case of fire? That is, in many instances have they failed to work? A. Very rarely. We have never had any, I think, in all the history of the mutual companies. I think there has never been a fire which got beyond control where the sprinklers were properly put in and the water supply was ample. There have been a few cases where, due to negligence, sprinklers were shut off, or something of that kind.

Q. Well, is there any danger of the automatic sprinkler system getting so out of order that it operates when there is no fire, causing a loss or destruction? A. There are some cases of that kind occasionally. Sometimes a soldered joint will be imperfect and a sprinkler will open occasionally and sprinkle, or a pipe in the mill or factory will be struck by a broken belt, or in some other way mechanically injured. Perhaps some workman, carrying a board on his shoulder, will strike one. Then, of course, the water escapes and there is a water loss without fire. That danger is, however, covered by mutual policies. The matter was taken up when some manufacturers felt reluctant to put automatic sprinklers into some places, as, for example, a main belt drive, fearing that the accidental cutting off of a sprinkler would wet belts and cause a serious tangle of belts. The mutual companies simply stated that they believed that the gain from the sprinkler was so manifestly greater than the possible loss that they would be very glad to cover that loss in their policies, and that is now included in all mutual policies practically.

Q. What has the experience of your company been with reference to such loss? A. It is comparatively small in comparison to the fire loss.

Judge Bruce: Mr. Chairman, have you any other questions?

Chairman Merritt: Yes, a few.

By Chairman Merritt:

Q. The stock company have stated that the improvement in conditions reflected in the reduction of the rate. In your case the improved conditions, the reduction of the hazard, is reflected in the amount returned? A. Yes, sir.

Q. Now, you said something in the early part of your testi-

mony with reference to the change in the construction of roofs. I take it that the entire system of factory construction, which has undergone such a noticeable change in the last twenty-five years, is a response to that same reasoning, is it not? A. It is. I mentioned the roofs merely as an example.

Q. I understand. Now, wasn't it a fact that the risk was increased by the height of the buildings? Hasn't that had a good deal to do with reducing the — I see many manufacturing plants now that are only one story where they used to be five or six or more? A. Yes, sir. The lower buildings are ordinarily better risks.

Q. And that has been one of the elements that the stock companies have made a reduction of rate on; where, in your company, the protection has resulted in the increase of the amount returned? A. Yes, sir.

Q. So that really the entire subject of mill reconstruction, if one may so call it, is in recognition of the increased return of that premium? A. Yes, sir.

Q. You can figure it out either way you like? A. Any way you want. It comes back. A man gets his insurance at cost. That is all.

By Mr. Hurrell:

Q. Mr. French, I wanted to ask you, is it possible to — possibly it has been asked — but is it a fact that mutuals are doing the business of insuring large mercantile risks in congested valued districts? A. Not our factory companies.

Q. Do you know there are mutuals that are devoting themselves exclusively to that? A. I think not exclusively. There are other companies on the mutual line that are doing something along in those directions.

Q. I show you a monthly report of fires and losses put out by the Boston Manufacturers Mutual Fire Insurance Company, and ask you if that system of reporting to their members is followed by all of the mutual companies? Factory mutuals? A. Yes, sir, in general. This report is printed by the Boston Manufacturers, and goes to practically all mutual members, and contains the fire

experience, not only of the Boston Manufacturers, but practically of all the companies.

Q. That is all of the companies included in the term senior and junior mutuals? A. Well, all that perhaps we might call the senior mutuals.

Q. Now, just give us the definition of those terms, senior and junior mutuals? A. Well, broadly, the senior mutuals are the older companies, as the name indicates; the older, and in the main, the larger companies. The junior mutuals were mainly organized at later dates, and for the purpose of insuring some classes of property which the older companies would not go into, applying the same method to a little different grade of risks.

By Mr. Hurrell:

Q. Well, now, that is an illustration; that affords an illustration how each number of any one of these mutuals is governed, of what is going on among all the other members as you said? A. Yes, that is the idea, to make the experience of one available for all.

Q. And that is put forth by the Boston Manufacturers in behalf of all these companies monthly? A. It practically results in that, yes, sir.

Mr. Hurrell: I offer that in evidence and ask to have it marked as an exhibit.

(Admitted and marked Exhibit "R." The same will be found in the Exhibit Volume.)

Q. One thing I forgot until this instant; what is the custom of a company, a factory mutual company, when it is asked to take an insurance upon a large mill which is beyond it capabilities as far as ability to cover goes, what does it do; does it take it and reinsure its risk in the way the stock companies do, or how does it cover a mill with many millions of insurance? A. Practically all risks in the mutual system are handled in this way: Some one of the mutual companies takes up the matter with the owners of the risk; the amount of insurance to be carried is fixed, and the rate, and especially the requirements for fire protection; then that company distributes the insurance among all or part of its associates, each company taking a line writing its own policy on the risk.

Q. And that is distributed among all the senior and junior mutuals, if necessary? A. If necessary, a very large risk might be distributed among all the senior and the junior companies; a very small risk might be distributed among simply a few of them. The idea is to do the business in the simplest possible way. A small risk does not need more than a dozen or half dozen to ten policies. A large risk may need many.

Q. If provision were made in the statute under which the mill mutuals could come into this State it would be fair, would it not, to include some kind of a provision that in case an admitted company takes insurance upon a mill, that in the distribution it would only place the distribution among other admitted companies in this State, so that all that came here would pay their share of taxes to this government instead of letting the Eastern States get all of the taxes? A. That might seem natural. I should want to see just how that would work before answering it.

By Senator Wagner:

Q. Just one question. What percentage of the premiums that you receive per year is paid out in expenses for operating the business? A. I haven't that figure ready in per cent.

Q. Can you give it approximately? A. I could if I figure that a little bit.

By Judge Bruce:

Q. That is important, if you will figure it now? A. I think it will all show in these reports somewhere.

Q. Could you give us an estimate now? A. That is, what per cent of the premiums received goes for expenses?

By Senator Wagner:

Q. Yes, for operating your business. A. I will give you that in just a minute. Well, about four per cent for office, inspection expenses; taxes would add about one per cent to that.

Q. Then about five per cent would cover the whole cost of administration? A. Yes, sir.

Q. Of conducting the business? A. Yes, sir.

Judge Bruce: That is all.

M. F. Westover, called as a witness, being duly sworn, testified as follows:

By Judge Bruce:

Q. Where do you reside? A. At Schenectady, N. Y.

Q. What is your business? A. I am secretary to the General Electric Company.

Q. The General Electric Company is one of the largest insurers in the State, is it not? A. One of the largest insurers in mutual companies, surely.

Q. And who has charge of the placing of the insurance for the General Electric Company? A. I do.

Q. And is a large line of this insurance carried in the mutual companies? A. All of it.

Q. Will you give the Committee the benefit of your experience and the experience of your company in its dealings with the mutual insurance companies? I want to give you the widest possible opening to give your entire experience? A. We began to insure with the mutual companies about sixteen years ago, and at about the time when the insurance was given in my charge. Our rates on the property at that time were five and seventy-five cents per $100.

Q. That is in the stock companies? A. In the stock companies. We began to protect the property in accordance with the requirements of the mutual companies; our first act being to put in fire pumps and automatic sprinklers, etc. We have now a pumping capacity of 11,000 gallons per minute. We have a reservoir capacity of —000,000 gallons at such an elevation as gives us eighty-eight pounds per inch pressure in the works. We have at Schenectady approximately 55,000 sprinkler heads, or in other words, we have eighty acres of floor space under sprinkler protection. In addition to that the construction has improved from the ordinary factory of that period sixteen years ago from the so-called mill construction of brick with plank roofs and plank floors, until recent years we have erected practically nothing except reinforced concrete. Areas have been limited by cut-off walls. All elevators are protected so that fire may not go from one floor to another; most of the elevators being outside the main buildings

in separate wells. We have found that ninety per cent of our fires, probably, approximately, occur through the use of volatile oils, either benzine or gasoline or other oils used in compounds in our manufacture; that, of course, would not apply to other classes of manufacture perhaps; so that in providing against the hazard of the volatile oils we have had the advice of the mutual engineers, and all such are protected, where we have dipping tanks, doors hung over the tank held by chains with fusible links, the principle being the same as that of the automatic sprinkler, so that in case the link releases the door closes upon the tank cutting out the air and so extinguishes the fire. We have rooms in which such processes exist, and there are fire doors which in case of fire are closed and jets of steam by steam pipes connected from the boilers to such places are turned on and so the fire extinguished. In all these ways we have reduced our losses, reduced the hazard, and we have never had any losses of any moment except in those cases where we disregard or disobeyed the instructions of the mutual companies. Unfortunately we have done that two or three times. In one case, our largest loss in the sixteen years, of $30,000, occurred in an old frame building filled with miscellaneous storage, which was already partly and would have been completely torn down within thirty days thereafter; that burned. Had it been sprinkled as the mutual companies asked us to do for two or three years we would not have had any loss, because we have had no losses where sprinkler protection is enforced. Our rates are mutual rates. In other words, the initial rate which we pay at the beginning of the year is substantially that of other classes of property insured by the mutual companies, and we receive the same dividends as other members of mutual companies, so that our rates have averaged for fifteen years about eight cents per $100.

Q. Prior to that time, before you went into the mill mutuals, they were how much? A. Fifty and seventy-five cents.

Q. Making the reduction from fifty and seventy-five cents to eight cents? A. Our experience is that it costs much less to protect property in large areas and large values, as Mr. French indicated in his testimony as to the percentage of cost and protection; I do not think ours has cost much more than one or one and

one-quarter or one and one-half per cent, and that would all be saved in two or two and a half years in the difference in premiums between the original rate before protection and the present rate after protection.

Q. How many fires, large and small, have you had in your works during the last sixteen years? A. Fires of which we have made claims, only a few, perhaps half a dozen or ten. We have fires every week upon which no claim is made and practically in which there is no loss, because the fires are extinguished by the sprinklers or by other protection which we have. We rely principally on the sprinkler. In more than one instance we have found the water running and the fires extinguished, the sprinklers having extinguished them. I may add that I have had to answer to the directors of our company as to the stability and ability to pay of the mutual companies; they not knowing the character of the mutual companies and their methods of doing business they ask me whether or not we were safe in the mutual companies, and whether we would not be called upon to pay assessments, because they knew that our policies bore an assessment feature, and I have answered them by looking at the matter from two standpoints, first, the amount of assets which these mutual companies have in proportion to their amount of risk, and then the amount of assets in proportion to the amount of property that will burn as shown by experience under the class of protection which they have, and with the class of members which are insured, and I have only now made up a table which I have taken at random; I took five of the largest stock companies merely from memory and compared their assets, their losses and their premiums by percentages.

By Mr. Hurrell:

Q. And what does this comparison show? A. I might illustrate.

Judge Bruce: Before you proceed, I offer this in evidence and ask that it be spread upon the record at this point.

(Comparison referred to received in evidence and marked Exhibit S; the following is a copy):

Exhibit No. S.

COMPARISON OF INSURANCE LOSSES TO ASSETS AND PREMIUMS, ETC.

	1	2	3	4	5	6	7	8
Stock Companies:	Amount at Risk (Millions)	Per cent. Assets to Amount of risk	Losses 1909.	Premiums 1909	Per cent. Losses to Premiums	Net cash Assets	Per cent. Losses to Assets	Assets Times Losses
Home	$1,887	.70	$5,408,000	$10,863,000	49.6	$14,182,000	38.	2.6
Hartford	2,070	.42	7,673,000	14,989,000	51.2	8,670,000	88.	1.13
Continental	1,349	1.04	3,074,000	6,668,000	47.1	14,044,000	21.9	4.57
Aetna	1,053	.95	3,653,000	7,334,000	50.8	10,062,000	36.3	2.17
German American...	1,330	.60	3,401,000	6,886,000	49.4	7,940,000	43.	2.3
	$7,687	.71	$23,209,000	$46,740,000	49.7	$54,898,000	42.3	2.36

Mutual Companies:	Amount at Risk (Millions)	Per cent. Assets to Amount of risk	Losses 1909	Premiums 1909	Per cent. Losses to Premiums	Net cash Assets	Per cent. Losses to Assets	Assets Times Losses
Boston	$302	.37	$51,000	$2,255,000	2.3	$1,124,000	4.6	22.
Arkwright	244	.37	36,000	1,793,000	2.	912,000	3.9	25.
State	197	.52	31,000	1,536,000	2.	1,023,000	3.	33.
Firemen's	165	.66	26,500	1,264,000	2.1	1,083,000	2.45	40.8
Manufacturers	104	.62	15,700	808,000	1.9	651,000	2.4	41.4
	$1,012	.47	$160,200	$7,656,000	2.9	$4,793,000	3.34	29.2

E. & O. E.

M. F. WESTOVER,
Secretary, General Electric Company.

A. (Continuing.) I have said to them that if a company has assets of 1 per cent of its amount of risk and a property burning within the year is 1½ per cent of the risk, obviously the company would become insolvent. If, however, the company shall have 1 per cent assets of the amount of risk, and only 1-10 of 1 per cent burn of the amount of risk, obviously the amount which it has to pay losses is many times the actual losses. Now, in comparing the stock companies and the mutual companies it will be seen by taking the 8th column, comparing the amount of loss in the year 1909 with the cash assets available for the payment of loss that the stock companies by groups had 2.36 times in assets the amount of their losses for that year. It will be seen, on the other hand, that the mutual companies during the same period had in their possession 29.2 times the amount of their losses. It is obvious that for our business, for each class of property to be insured, having members of such character and protection of this class, that it is much safer, that we have a vastly greater margin of safety than would be possible with stock companies. I do not mean to say the stock companies are not absolutely safe and a conservative business of their class, but our margin of safety is vastly greater.

Q. In the second column, Mr. Westover, headed "Assets to Amount at risk," that has reference to cash assets, does it? A. Cash assets, the surplus plus capital.

Q. And in addition to that, while the percentage there shows that the stock companies have a higher percentage of cash assets to the amount of risk than the mutuals, in addition, and this is not figured in as I understand it, do the mutuals have the right to assess each policy holder for five times the amount of his gross premium which he pays when he takes the policy? A. That is true. The assessment feature is not referred to in these figures in any way.

Q. And the assessment feature of five times the amount of the gross premium for which a policy holder is liable is a feature of every mutual policy issued by the so-called factory mutuals? A. That is true, and if that assessment feature were added the mutual companies would then have 145 times the amount of their losses as shown by experience of 15 years. I want to say that those figures for 1909 represent our experience for the last 15 years.

By Judge BRUCE:

Q. As against 2.36 for the stock companies? A. Yes, sir.

Q. During the 16 years in which you have had experience with mutual companies has any assessment ever been made? A. No, sir.

Q. In your judgment would you advocate the admission of mill mutuals to do business in our own State? A. If the mill mutuals can come in without undue burdens I think it would be advantageous to manufacturers of this State.

Q. What do you think would be fair conditions to impose? A. As they have no capital it is obvious that they cannot make deposits. The conditions therefore must relate to the amount of risk and the rate of premium. If the mutual companies as they stand now with their present record can be admitted almost without conditions except a representative upon whom service may be made for suit ——

Q. And the imposition of a tax to carry the burden? A. I think it ought to be realized that it is perfectly vain for the stock companies or any other class of organizations to attempt to compete with mutual companies in their own field, because evidently no corporation can compete on a profitable basis with those who are doing business without profit.

Q. In order for a mill owner to secure such insurance in our State under the present laws it is necessary for him to go into a foreign State and make his contract there, is it not? A. It is, and under the law which was proposed and which Governor Hughes vetoed, I should have been a criminal for going into the other State and getting a policy of insurance.

Q. Have you any other suggestions to make on this point as the representative of a large mill owner? A. I have not.

By Chairman MERRITT:

Q. The investment which is necessary to comply with the requirements are sometimes regarded as a disadvantage; I suppose that that is simply from the standpoint of the individual mill owner who may not feel like investing that additional amount of money, but really it is in no sense to be so regarded in your opinion, is it? A. It may be somewhat of a burden to him the first

year or two, but after that it is all saved by his reduction in rate, but in addition to that, in addition to what I previously mentioned, which did not occur to me, he has vastly more than that which he does not pay anything for, what is commonly called use and occupation insurance. His profits are insured by the fact that his property is so protected that the production will not be interfered with by fire. All companies having mutual company policies have that additional feature of insurance of profit through uninterrupted manufacturing conditions.

Q. The mutual companies charge nothing extra for expert advice or inspection? A. None whatever, and I omitted there, I forgot to say, that the General Electric Company at none of its factories erects any building until the plans have first been sent to the mutual companies and receive their O. K. and their suggestions as to the character, construction, arrangement of the processes of the building, etc., which almost universally follows.

Q. And this inspection which follows, as has been testified is regarded by you as a very important service, is it not? A. It is.

Q. It keeps you up to requirements? A. It has often been felt by us that their engineering advice was well worth the premiums we had to pay.

By Judge BRUCE:

Q. What disadvantages, if any, do you find in being compelled, as the law now is, to seek such insurance in other States and make your contracts there? A. None.

Q. Do you think it would be of no advantage to our own mill owners to allow these companies to be licensed in our State? A. It would, because many mills do not know, they are not familiar with the methods, or do not take advantage of what is really a very beneficent system.

By Mr. HURRELL:

Q. What precaution do you take in that large plant at Schenectady to see that the system itself is not interfered with in any way so as to make it ineffective at times when most needed; do you have a daily or weekly inspection of your own? A. We have a fire fighting department with fire chief and about 80 or 90 mem-

bers on duty in the daytime, and at night with one full company on duty. The important thing is of course that the water shall be on pressure upon the sprinkler system, because that being done their is no real danger of a fire. That is regarded of all things the most serious and most important to have the sprinklers full of water and with pressure and that the valves shall not be closed; in other words, the valves shall always be open so that the water is on the sprinklers. Our valves both interior and exterior are strapped open and riveted, so that if in any emergency it becomes necessary to cut the water off the sprinkler, it is necessary to cut that strap and then the valve may be closed. That is done to prevent interference or meddling or tampering with the valves and we find it prevents it. People do not meddle with the valve when it is necessary to cut the strap in order to close it We have found in the last 8 years only two cases where these straps have been cut; and we have regular weekly inspections of all valves, of all parts of the equipment, but we also — it is the duty of every fireman in every manufacturing building daily to keep an eye open, to look out for the fire fighting business.

Q. Have these firemen any other duties? A. Oh, yes, they are workmen.

Q. They are of your own body of employes? A. Yes. The men who are on duty at night are paid, they are not from the working force. Those on day duty are organized in that respect in addition to working and the facilities given them of gymnasium work, etc., in the fire department house, and they also have two weeks vacation which the other workmen do not get.

By Mr. Hurrell:

Q. Do you know whether the American Locomotive Works is equipped in a similar way to your plant? A. I believe it is.

Q. And insured in the factory mutuals? A. I believe so.

John R. Freeman, called as a witness, being duly sworn, testified as follows:

By Judge Bruce:

Q. Where do you reside? A. Providence, Rhode Island.

Q. And your business? A. Engineering, and part of my time devoted to insurance, about an equal division.

Q. In your capacity as an engineer are you connected with the new water supply? A. I am consulting engineer for the Board of Water Supply.

Q. Of the city of New York? A. Of the city of New York.

Q. And have you also in your capacity as engineer been connected with the Panama Canal? A. I was on an advisory board of engineers there.

Q. Are you identified in any way with insurance companies? A. I am the president of some insurance companies.

Q. Will you name them, please? A. The Manufacturers, the Rhode Island, the Mechanics, the State, the Enterprise, and American. Those are virtually a consolidation of six companies organized at various times; the separate identity of the companies has been preserved, but they are all operated in one office and have substantially the same officers and substantially the same board of directors.

Q. And about what amount of insurance? A. A little over $700,000,000.

Q. Now, Mr. Freeman, this Committee is charged by the Legislature with the duty of investigating the subject of fire insurance. Knowing you to be not only an expert engineer of national and international reputation, but also a man of very wide experience in the field of insurance, the Committee has asked you to come here and give it the benefit of your experience on this question, and I wish to give you the widest possible opening, and ask you if you will give the Committee the benefit of your experience on this whole field of mutual fire insurance. A. The story has been so clearly told by Mr. Toppan and Mr. French that it might be wearisome if I went into much detail. I can say that two of the companies of which I have charge were the two earliest of the mutual companies, and they were organized by a man who was in many ways ahead of his time, a very progressive manufacturer, who looked at many things in an original way. I think he was one of the first men in this country to practice systematic forestry, and when he came to build his mill he built it along advanced lines, and then, as Mr. Toppan has stated, when he came to insuring it he was disappointed at not getting concessions in rates commensurate with the superior quality of the mill, and so

organized the first of our mutual companies. That was 75 years ago, and a second company was organized about a dozen years later, and their field for many years was a very restricted one. They did no advertising; did no soliciting; it was simply one manufacturer speaking to a neighboring manufacturer, and inviting him to join with them, and with no particular effort to push the business. From that they have gone on until in the last few years they have been growing even more rapidly than ever before, at the rate I think of expansion of about ten per cent each year, and have been extending their fields of insurance into other States. That is, a manufacturer in the home State could also be interested in a factory in some other State, and would suggest that they there apply to us in Rhode Island for its insurance.

Q. In what other States does your company operate, if I may interrupt? A. We do our insuring wholly within the State of Rhode Island. Every policy is written in our home office, and every insurance act is performed in the State of Rhode Island. The properties which we insure are located in I should say a dozen or fifteen of the Northern and Central States, and also in the Piedmont belt of the southern cotton manufacture. I think in the State of New York we insure factories of an aggregate value of perhaps $75,000,000, and within our own State and within the New England States broadly, I believe that we are insuring probably ninety per cent of the factories that are by construction and protection qualified for our class of insurance. We confine our business chiefly to isolated risks, and to risks which are protected, which can be protected by automatic sprinklers; and the fundamental principle with us is that of protecting the risk against fire and trying in every reasonable way to lessen the fire loss. It occurs to me that our by-laws state in section 1 of article 5: "The objects of this company are: First, the prevention of fire loss to its members through promotion of knowledge or safeguards, inspection and warning against dangerous conditions. Second, the provision of insurance to its members at cost and the equitable distribution among its members of such fire losses as they may incur; and for this purpose to establish a reserve, so that losses due to unusual conflagrations may be more widely distributed and greater security provided for the payment of such

losses. The business of the company shall be conducted on the co-operative or mutual plan, without purpose or profit, according to the methods prescribed below."

Q. May I have a copy of the by-laws? A. Certainly, yes, sir.

Judge BRUCE: I wish to offer this copy of the by-laws in evidence.

(Received in evidence and marked Exhibit T. The same will be found in the exhibit volume.)

A. (Continuing.) One feature of our business which has led to our success has been that our directors are all practical manufacturers, that is, the company was started by mill men. We have had the benefit of their practical experience and their judgment on meeting new conditions as they have arisen. We have sought all the time to give the broadest possible policy; until the State Legislatures began by statute to prescribe certain policy forms our policies were very remarkable for their brevity. Now, of course, we follow the standard form of policy prescribed by the State of Rhode Island and the State of Massachusetts, which is the same as the standard New York policy; the written form is the same as the standard New York form, but we add to it various riders as permitted in the policy which gives the manufacturer the greatest possible freedom from rendering his policy void by inadvertence. That is, a very common clause is to permit the use of any and all materials required in his business, and we in nearly all cases give a blanket policy, that is, we cover everything within his factory or under the one item instead of subdividing everything minutely, and the whole effort has been to in every way give the broadest possible contract, and one that is free as possible from all technicalities. I heard the word "co-insurance," and I would say that in some few cases we do use a co-insurance clause, but that is after full explanation with the insurer, and I suppose there are not more than 5 per cent, probably less than one in twenty of our policies which has the co-insurance clause. I would think it was more nearly less than one in one hundred of our policies.

Q. Are your risks usually insured up to their full value? A. Substantially so, and it is our effort to have them, and a part of

our system of insurance is to have a corps of expert appraisers who without charge to the assured are ready at any time to assist with the clerical force of the mill in making an accurate appraisal of the property, and in that appraisal we try to take due regard of depreciation and to put the thing substantially on the same basis on which we would expect to pay for it in time of fire.

Q. You deem that in every risk you have the same moral hazard that any other company has? A. No, I think our moral hazard is very superior. I think it is a matter of history that in — well, in the twenty-five years with which I have been connected with those companies I can recall not more than two cases where there has been even a remote suspicion of any moral hazard, that is of the fire being set by design. We have an advantage over the stock companies doing a miscellaneous business in that regard. We are dealing in most cases with large concerns; we seldom insure a property unless it has I would say a hundred thousand dollars at risk. Our average risk in one factory is larger than that, and naturally the men in charge of those large businesses are high grade men, and while Toppan has been connected longer than I, and I have talked with the men who have been in the business longest, I never have heard of more than those two instances where the suggestion of moral hazard had been raised.

By Chairman Merritt:

Q. It is a class of business that people cannot afford to have burned up? A. They are. They are businesses which at times are unprofitable. We very often have conditions where a man would find it more, much more profitable in having a large fire than he would in operating his factory, in times of depression.

By Assemblyman Colne:

Q. Are they mostly cotton mills? A. No, not over half cotton mills, rather less than half; they comprise paper mills, machine shops and certain preferred chemical works and electrical works, almost every variety of industrial activity which is well housed and which can be protected by automatic sprinklers and fire pumps alike.

By Chairman MERRITT:

Q. This method of construction and inspection results in a a situation, does it not, where the separate risks do not rely very much upon the local fire departments for help in case of fire? A. We have been forced to go beyond the protection given by the local fire department in many cases in order to get the degree of protection that we consider proper to avoid danger of loss. For example, in the risk of the General Electric Company with which Mr. Westover is connected, my recollection is that the total capacity of their fire pumps would be equivalent to the combined capacity of more than fifteen ordinary steam fire engines, and in many cases we will request fire pumps that are much beyond the aggregate capacity of the fire engines of a city in which the risk is located; that is, our first effort is to prevent destructive losses by fire; it is the conservation principle which has become so popular lately and which we have been practicing for seventy-five years.

Q. Did you have any experience in the Paterson conflagration? A. We did. It was a very instructive experience. There were a line of mutual factories, which were protected according to our standards, each with its own fire pump and protected by sprinklers, and the fire advanced simply to that line of factories, and it was held there by the men employed in those factories, who fought the fire and stopped its advance in that direction. And there was a very instructive case in the Baltimore fire. There was a certain factory there, not insured with the companies with which I am connected, but I spent a week in Baltimore after the fire, studying the lesson of it, and spent a day at one particularly, a clothing factory, or clothing and miscellaneous cloth goods. And the conflagration had raged with exceeding fierceness right up against that factory. But they closed their fire doors, and their sprinklers were put in operation; they started the fire pump, and their men worked heroically; but they prevented the fire making any further advance in that direction. We had a very instructive case in the city of San Francisco. Our office placed the insurance of a concern with a San Francisco branch, and the manager of their insurance department came to us and stated they were building a new department headquarters in San

Francisco, and they had difficulty in getting proper insurance, getting proper concessions for the protection they were willing to put in, and he desired us to insure it. I told him that it was out of our district, we could not do it. And they made the suggestion that they would build it precisely as we wanted it, and would pay the extra cost for one of our experts to go there several times a year and see that it was being kept up to standard. So, as we had large lines of other insurance for the people, we broke over our rules and placed an insurance on that factory. I visited it personally while it was under construction. And the interesting fact about it all is that the morning after the San Francisco fire they were doing business at the old stand, and everything around them was laid waste. That one building stood up like a monument in the center of an area in the burned district of acres in extent on either side. That simply illustrates that the methods of protection which we have been slowly developing, during, particularly during the last thirty or forty years, are capable of meeting a very severe conflagration. Now, to illustrate, in that case we had windows of wire glass, we had a sprinkler tank of 50,000 gallons on the roof, we had the building protected thoroughly by automatic sprinklers in every part; we had a fire pump of a capacity larger than any city steam fire engine, located as part of the equipment, and when the fire came, the men had apparatus with which they could successfully meet it; and they saved the building.

Q. Have the mutual companies been leaders or followers in this field, as compared with the old line stock companies? A. They have unquestionably been the leaders. Twenty-five years ago that was much more pronounced than it is to-day, but particularly during the last ten, or possibly, fifteen years, there has been a very marked awakening among the stock companies in following the same lines; and in certain fields we are now working together, each trying to help the other, each taking certain parts of the field for investigation. We maintain a very large laboratory for the investigation of fire protection matters, and we co-operate in a friendly way, and exchange information with the laboratory of the stock companies located in Chicago.

Q. Doesn't that instance in San Francisco, that you related,

demonstrate that the conflagration hazard in this city in the congested districts, for instance, from Chambers street to 14th street, could in that respect be largely eliminated? A. I believe with the new water supply, the high pressure, which we are now introducing, and which will run in a tunnel under rock three or four hundred feet beneath the surface, and which will give a pressure that will raise water by its own gravity to the height of a twenty story building, I believe when that is available and connected to the commercial risks, and the risks are protected by automatic sprinklers, that it will do more towards controlling the conflagration hazard than anything possible, save, a complete rebuilding with fire proof construction. One great advantage, one supplemental advantage of our system is that in fireproof construction, it is simply the building that is fireproof, but under our methods the stock, the combustible contents, become fireproof by the automatic sprinkler system.

Q. The inspection department of the mutual companies have published this report upon their experiences in the Paterson conflagration in 1902? A. Yes.

Judge BRUCE: I offer the report in evidence.

(Received and marked Exhibit P. This report will be found in the volume of exhibits.)

The WITNESS: I might say in that connection, we freely publish our experiences, and our effort is to help along the good cause of reducing the fire waste in every way we can, and our experience is freely open to stock companies, or to any manufacturer, who desires it. I might say a word as to our inspection system. I had charge of that for quite a number of years, and it was part of my duty to put it more completely on a technical basis than it had been before; and to engage the services of a large number of scientifically educated engineers, and to put it as far as we could on a thoroughly scientific basis. And at the present time, I happen to be chairman of the General Inspection Committee of the Mutuals, and so I can testify from knowledge, that we are spending upwards of a quarter of a million dollars a year purely in our inspection department, in visiting factories, looking after their fire hazards, and in our laboratory, making researches with reference to reduc-

ing the fire loss. Our system of inspection might interest you. We employ somewhat more than twenty men, who are selected for their knowledge and experience; a majority of them have had a scientific education at some one of our leading technical schools; others have had many years experience as master mechanic in some of our large factories. These men follow each other at intervals of three months, making a thorough inspection of each factory from top to bottom. The manager of the factory does not know when they are coming. They drop in just as a bank examiner drops in at a bank. And we insist on their being given instant access; he has no time to fix things up, for those men are to be admitted immediately. They proceed through the factory, through every room and through the whole length of every room, and they have with them a blank that contains, I suppose, more than a hundred different headings, which they have to mark as to how they find things. But first of all, we insist on very superior neatness and order. I find that the greatest cause of fires is bad housekeeping, and so, first of all, our men insist on thoroughly first-class housekeeping and those of us who have been in the business a long time I think commonly would have very little difficulty on entering the door of a strange factory, and walking through a number of rooms, in telling whether or not it had been under our system, or perhaps a similar system recently introduced by the stock companies, or whether the owners were going on in the old way, that is, when we look over a risk that has been insured under other methods, we commonly find that it will take a year or two to get it tuned up to our standard of superior housekeeping. Then we insist that waste of all kinds should be promptly removed, and that the corners be kept clean, and that rubbish shall not be allowed to accumulate in dark corners. And that I might say, is the very beginning of our method of preventing a fire loss. Then the second article in our creed is complete protection by automatic sprinklers. That, of course, has only come during the last 20 or 25 years, and we felt our way along very gradually in that. The first automatic sprinklers in a large way were put into a factory in Fall River, into a cotton mill, which mill happened to be largely owned by a man who himself was an engineer by education, and who saw the possibility of the automatic sprinkler before it was generally appreci-

ated, and he had the dangerous card room, the picker rooms, and what were regarded as the dangerous rooms in a cotton mill, protected by those sprinklers. We followed the statistics of fires under sprinkling protection and fires under no sprinkling protection very carefully for ten or fifteen years before we were ready to take a decided stand that everything we insured must be protected by sprinklers; but we finally became convinced beyond the shadow of a doubt that that was wise, and that they were abundantly well worth their cost was absolutely demonstrated. Another of our fundamental requirements is to—particularly in the case or a city risk which has neighbors which may be regarded with apprehension,— is to insist that the factory has means of helping itself, by means of a fire pump, hydrants and equipment of fire hose, so that, as in the case of the Paterson fire, where the city department might be busy in some other part of the town, that the workmen of that factory have the means and appliances with which to defend their factory when the fire comes in their direction.

Q. Now, to go back a moment to the sprinkler proposition, is there any limit to the field in which automatic sprinklers can be practically installed? A. There is, decidedly. I have lately been asked by some of our city officials in Providence to say how far I would recommend that sprinklers be applied to certain of the school houses. We do not insure those school houses, but simply in an effort to help the good cause along, very much as Mr. French worked on the Old South Church, we have had our experts visit those school houses, and it resulted in our recommending them for the basements, for the lofts, for the places around the heating apparatus, and for the cloak room. But we did not recommend them for the main school room. Take it in a theatre. I have no question but that every theatre, or place of amusement that has a stage should have that stage thoroughly equipped with automatic sprinklers. It seems to me little less than a crime to permit them to go without sprinkler protection. But when you come to the auditorium, in our better grade of theatres, as to whether it would be well to have sprinklers in them, that I have not decided on; but I would recommend that all of the dressing rooms and all of the lower portions of the theatre be sprinkled.

In a great many of the commercial establishments here in the city, I think that sprinklers might profitably be extended over every portion. They can be put into even a store like—well, say, the finest jewelry store in the city of Providence is protected by sprinkler itself is worked in as a part of the ornamental features. which I do not now recall, where the sprinklers are worked in, where they are not at all offensive. The pipe is concealed, and the sprinkler itself is worked in as a part of the ornamental features. I recall now a certain directors' room in a large office here in New York city, where there are sprinklers all about the ceiling, and one would not notice them unless his attention were called to it.

Q. Now, with reference to hotels, do you know of its application there? A. I have not personally studied up that, but I believe there are very many places around hotels where they would unquestionably be of great use. After the Slocum disaster here in New York harbor, I became convinced that automatic sprinklers on a steamboat would have saved that disaster. One of the Fall River boats has been equipped with automatic sprinklers, but I think they haven't got their courage up to the point where I hope it will be a little later; they do not keep the water connected with these sprinklers all the time. But I believe that on our harbor boats that automatic sprinklers could very properly be introduced; and I believe also that the pressure could be kept on them at all times.

Q. Take the Washington Hotel, do you know anything about that? A. Not intimately; I have only been there in a cursory way; I have never inspected it.

Q. Has it an automatic sprinkler system, do you know? A. I am not clear as to that at the present moment.

Q. Take this recent conflagration in Newark, N. J., where so many lives were lost, where there was such a terrible calamity if an automatic sprinkler system had been in existence, and in proper working order in that factory, or a factory like that, would such a disaster have been possible.? A. I believe not.

Q. Take the destruction of the old Windsor Hotel, many years ago in Fifth avenue, in which such an appalling loss of life occurred, at mid-day, could that have been possible under automatic sprinkler protection? A. I do not recall the circumstances

there closely enough so that I would feel justified in giving an opinion. But I do know, however, that in many hotels which I have been through, if sprinkling on the back stairs, the kitchens, the basement rooms, and in a great many portions, were installed, that the safety of the guests would be greatly increased. Now, whether the time has come, whether it has been demonstrated to be worth while to put the automatic sprinkler in every room, I am not yet clear. I do not think it would be in our first-class Metropolitan hotels, which are usually of fireproof construction, but in many of our country hotels, I believe it would be a good policy, even there.

Q. You think such a requirement should be made by ordinance or by law, for the protection in the prevention of fire waste, applying it to factories, mercantile houses, theatres, hotels, school houses, and that class of risks? A. I don't know. I haven't studied it enough to say whether the time has come to force that by general statute, or whether it might come better through an enlargement of the fire marshal's office in every town, or some official of the municipality, who would be an expert in matters of fire prevention, and who would have power to prescribe where such safeguards should be introduced.

Q. You have a fire marshal law in the State of Rhode Island? A. Yes, but I am not very familiar with it.

Chairman Merritt: It does not work very hard, does it?

The Witness: I don't know.

By Assemblyman Colne:

Q. In the matter of adopting the sprinkler concerns, what is the process of passing upon any good invention, to effect that purpose? A. We have what is called our preferred list; when any inventor or any manufacturer brings forth a new type of automatic sprinkler, and says he would like to have our laboratory investigate it, our experts do investigate it without charge; our effort is to promote competition between manufacturers of fire protection devices.

Q. Now, most of these automatic devices operate by the rising of the temperature, resulting in the meeting of solder? A. They do.

Q. What has your experience been in the matter of chemicals, preventing their working at a time when they should not work? A. I have not found that trouble. I have heard a little about it. I have personally melted open hundreds of sprinklers many years old; I personally visited some of the factories that were the very first ones to be protected in that way, and have taken down sprinklers, carried them to our laboratories and tested them; and the deterioration in the fusibility of the solder is practically a negligible factor. There may be some cases where there are chemical fumes that may act on the solder, but certainly in more than ninety-nine buildings out of a hundred, that has no substantial effect.

Q. The purpose of my question simply was to find out if there is not to-day a perfect system that is dependable in time of necessity; and you find that there are systems of that sort that are practically dependable at the time needed? A. Our statistics seem to show that. We have considerably more than a fire a day that is reported to us in the factories we insure, and I have no doubt there are many other men like Mr. French, who have a great many fires they do not report to us, that are so small they think it is hardly worth while. And I have known some factory managers who have told me, in a jocose way, "We are not going to tell you of all the fires we have; you will get an impression that we are doing a dangerous business. As long as the sprinklers put them out without any damage, and as long as we do not call on you, why should we report them to you?" Now, we always answer them by saying, "You should report them to us so we can get better statistical data, so as to help us in the developing the art." And I might say that one branch of our inspection department is to investigate fires, often in cases where we are not interested. This last week there was a fire reported down in Brockton, where the newspaper reports indicated that outside sprinklers, on the outside of a wooden shoe factory, had been a great factor in preventing the spread of that fire. We immediately sent one of our men down to investigate it, although we hadn't a dollar of insurance there.

Q. That would be a severe test, would it not? A. Yes; in that particular case we found that our expert reported that he did not

think the sprinklers had done any particular good. That is, that the wind was the other way. That is, we try to study every case that we can to learn all that we can to help us in the future, and our report that the first man fills out on reaching a fire — one of the most prominent lines on that report is, "What was the special lesson of this fire." Now, it is by studying those lessons and trying to develop a sense of fire protecction that we have brought the losses down to the point where, for the past three years in the companies that I am connected with, it has only been a fiftieth of one per cent of the value covered. That is, our first effort is to keep the premises so clean that fire will not occur, and second, to protect them in such a way that the small fire cannot grow into a large fire.

By Mr. Hurrell:

Q. Mr. Freeman, in relation to the question asked by Senator Colne, I ask you if these two pamphlets contain a list of several approved devices in the various lines? A. They do.

Q. It is for information of any members, and for the information of the public? A. Yes.

Mr. Hurrell: I offer these in evidence and ask to have them marked as exhibits.

(The pamphlets so offered and identified were marked Exhibits U and V in evidence.)

Q. I ask you if these two sheets are typical copies of the inspectors' reports as they go through one factory after another? A. They are thoroughly typical except that—yes, I noticed in one of them; the first item that we looked for in running our eye over them, is — I notice the first one, "General order and maintenances neglected." Now, in a case like that there would be a warning sounded, and if that were not remedied soon we would discontinue the insurance. I notice in the other case the first point is it is rated as "Excellent." Those are typical. Thoroughly so.

Q. What is the significance of the underlining of the words and the crossing out of the words? A. The word to which the condition applies, is underlined, or as it goes through our depart-

ment to find it a little simpler to use the line rating throughout, so that here the word that is crossed out is the word that is effected.

Q. That is the answer? A. Yes, sir.

Mr. HURRELL: I offer these also in evidence; these two sheets, as exhibits.

(The pamphlets so offered and identified were marked Exhibits W and X in evidence.)

By Judge BRUCE:

Q. Mr. Freeman, are your companies with which you are connected anxious to be admitted to do business in this State? A. Why, not particularly so. We are getting on very comfortably as it is. We insure $75,000,000 of property there, but I would say that we would, under a just and reasonable law, I think we would be pleased to apply for regular admittance into the State.

Q. And what would you suggest as a just and reasonable law? A. In the first place that it should not increase our expenses. We have studied the economy factor very closely, and anything like establishing agents in the State, or like multiplying the returns that we would make, or like any minute subdivision of our statistics as applicable to different municipal divisions of the State, would all tend to increasing the cost. I think if we could be admitted to New York under the same conditions which we have recently been admitted to South Carolina, that just as we have in that case, we would very cheerfully and gladly enter the State.

Q. Have you a copy of the act passed in South Carolina? A. I can obtain one. I have not one with me. Mr. French states that he has a copy.

Mr. HURRELL: I wish to offer in evidence this copy produced by Mr. French as an exhibit.

(The paper so offered and identified was received and marked Exhibit Y in evidence.)

The WITNESS: We feel very strongly that any tax should be assessed on the cost of our insurance. Our premium is not a premium in the ordinary sense; in the sense of derivation it is a pre-

mium. It is something that is sent in advance, but it is a deposit which does not represent the annual cost of insurance. It takes the placeof capital or of a guarantee. Thus we have at the beginning of the year about twenty times as large a sum as our average experience shows us will be needed; certainly more than ten times as much as our experience or the past ten years shows to be necessary. Now, that stays with us simply as a guarantee against any unheard of sequence of disasters, or against any considerable sweeping conflagration, and at the end of the year, or at the end of the term policy, we return all of that back that has not been absorbed by losses and expenses. That is, in my own office, we are just putting a new form into effect insuring a man at his option, either for one year, or for, in some cases, four years, and very curiously it might seem to you we do it at the same price, whether it is for a one year policy, or for a four years' policy, simply because we regard this as a policy from which, in the case of the four year policy, year by year we subtract the amount that has been absorbed by losses and expenses, and whereas for the one year policy we would to-day be returning a dividend of ninety-four per cent on the original payment; if the policy had been in force for three years there would have to come out of that the losses and expenses of three years, so the dividend would be, we will say, eighty per cent. That is the fundamental conception of the mutual premium should be that it is a deposit and not an annual charge. Now, I might say as to our own State, anticipating the question which was asked of my friend from Massachusetts, that the State of Rhode Island now passes us on the gross premium, and we plan when the Legislature convenes to go before them and explain the injustice of the present position. That is, years ago, when we were small, it did not make so much difference, perhaps, but now, as a matter of fact, our burden of taxation is greater than our burden of fire loss, and it seems ridiculous that we should be asked to pay any taxes more than we pay in fire losses.

By Chairman Merritt:

Q. You will have to reduce your initial collection? A. Well, that question was asked me a number of times in Washington

last year in connection with the Federal tax, and I stated that our people first of all want insurance that is absolutely secure, and these mill owners do not object to putting up a sum equal to, on the average, about three-quarters of one per cent of the value of their factory. That is, they have paid it once for all and let it stay there, and any man who has sufficient capital to do his business can easily make that deposit; and first of all they want insurance that is absolutely secure and no one objects to our extravagant factor of safety. That is, we want to be in shape so that whatever happens we will never have to make an assessment. We have not made an assessment in fifty years, and we do not intend to in the next fifty years, and we intend to take money enough at the beginning of the year so there will be no possibility of our ever having to do that.

Q. So the insured will not have any nervousness in insuring in your plan, as compared with the stock company and capital investment? A. Yes. It takes the place of capital and surplus.

You might be interested in the experience of our six companies for the past year; that our average gross premium was seventy-seven cents per hundred dollars per year; that we take those gross premiums and invest them in productive securities, such as United States bonds or State bonds or preferred railroad stocks, or first-class Stock Exchange securities, all of which are quickly convertible in case of need, and we get, on the average a little better than four per cent interest on this premium while we hold it.

Q. Are you controlled in any way as to what those investments shall be? A. No; simply by the judgment of our board of directors. Now, all of our fire losses last year were less than — well, were one and six-tenths cents per hundred dollars insured. Then we gave, without extra charge, insurance against the leakage of automatic sprinklers; the premature discharge. We gave that without extra charge. Our cost of that last year was two mills on one hundred dollars insured, and our inspection expenses were about two cents per hundred dollars insured, and our rents, salaries, administration expenses and all officers and clerks, were about a cent and a half per hundred dollars insured, and our State and city taxes were about two cents per hundred dollars

insured. That is, our taxes were decidedly larger than our fire losses.

Now, we returned to the policy holders, out of the seventy-seven cents per hundred dollars which we took the beginning of the year — we returned about seventy-three cents at the end of the year, so that the net cost of his insurance was about four and one-half cents per hundred dollars per year, or less than a twentieth of one per cent.

By Senator COLNE:

Q. What is the total of salaries and so forth, as compared to the actual matter of fire losses; that is, the total of management as compared to the total fire losses? A. Our administration expenses, rents, salaries officers and clerks, were just about the same last year as our fire losses; a little less.

By Senator WAGNER:

Q. What percentage of the amount of premiums that are paid in are your operating expenses? A. About three and one-half per cent.

Mr. HURRELL: I offer this statement in evidence.

(The statement so offered and identified was received and marked Exhibit Z in evidence.)

By Senator YOUNG:

Q. What percentage of the amount retained? A. It is quite a large percentage of the amount retained. The figures that I just gave you will show that if they are segregated and added up. That is, our whole effort is prevention.

Q. I understand that. I was interested to know what percentage of the amount retained represents cost of administration? A. I have here a table showing our office proportions at the end of every year, from the returns made to the insurance departments of the different States, which will show what those expenses are for the various companies in the State.

Q. I only wanted to know approximately? A. If you desire, I will offer that in evidence.

Mr. Hurrell: Yes. I offer this statement in evidence as an exhibit.

(The statement so offered and identified was received and marked Exhibit A1 in evidence.)

The Witness: Someone was questioning as to the premature discharge of sprinklers. If I may refer to these figures, I have the figures for the last year, and found that on an experience covering about two thousand factories, and covering about six million automatic sprinkler heads, that it averaged about one sprinkler in forty thousand that caused damage during the year by premature discharge, or, it is practically negligible.

By Senator Colne:

Q. Is that mostly by accident, or does that automatically happen? A. Sometimes by freezing. A window will be left open and the cold air will get in and freeze the sprinkler; or sometimes a belt will break and tear down a line of sprinkler piping, or, one of our very large losses, there was an accident to a four-inch pipe or six-inch pipe, I think, of the sprinkler system which a belting burst, and discharged an enormous volume of water over an expensive stock of goods, and so that our average loss for the whole year, as I have stated, was two cents — no, two-tenths of a cent per hundred dollars insured, including some very large losses of that kind.

By Judge Bruce:

Q. Now, Mr. Freeman, have you any suggestions to make that could be incorporated into legislation that would decrease the fire loss? A. I have not had occasion to study that from the standpoint of the Legislature. I might say in this whole connection now, that raises another question about the entering of different States—that our whole attitude has been to not meddle with the process of legislation in other States. That is, we have letters coming in almost every week or month asking us—perhaps in Wisconsin—what about the insurance law of Wisconsin — and our reply is — that is for the maunfactur-

ers of Wisconsin—to get their own counsel to interpret and to see whether they want it modified; that we do our business wholly within our State, and our Legislature is the only one that we are concerned with; and, as I have told you, we are going before our Legislature and try to get justice from them on the matter of taxation.

As the matter now stands, a factory — I recall a case. I was speaking to my board of directors about it a few days ago. Out of our window we could see a very large machine shop that has alternated in its insurance between the stock companies and the mutual companies; during the years when that has been insured in our home companies, we have paid as a license to the State for doing the same insuring of the same factory and the same amount, eight times as much as the English and other foreign companies have paid. Now, that seems to be a pretty fair demonstration of protecting the foreign companies against the American companies, and we would ask that New York should not discriminate against us in that way.

Q. Is there anything else that you have, Mr. Freeman, that you would like to add to the record? A. If I have not made it clear, I would like to say that our taxes, our State taxes, if we were to enter New York, should be assessed in a block; that is, on our sworn return to the Insurance Commissioner of New York on the amount of insurance that we wrote on property in the State of New York, all in one sum, just as we report it to the Insurance Commissioner of Massachusetts. That is, that we should not be put to the trouble and bother of subdividing it among municipal subdivisions in order that the firemen's association in one town can get its proper proportion.

Q. On account of the expense? A. Yes. I have nothing further.

Judge Bruce: Are there any other questions, gentlemen?

By Senator Colne:

Q. Mr. Freeman, what is the percentage, or probably, what is your experience in the matter of these automatic fire sprinklers as to the matter of damage in the same building where a fire occurs, but not actually at the seat of the fire? That is, say a fire

starts in a building and it operates the apparatus, but may operate it in other portions where the fire is not actually occurring, but may be set in operation by the amount of heat that goes into the room? A. Our fire protection engineers try to guard against that when they visit a factory and lay out our scheme of protection. They guard against it by providing automatic doors between one story and another, so that if a fire starts in the basement, that the hot air will not rush up an open stairway or open elevator way and melt off the sprinklers in the room above. Now, when that is done, I can illustrate the courage of our convictions and our experience by saying that I could take you to hundreds of places where beneath a single sprinkler head is piled goods of value of from five to ten thousand dollars. That is, if that particular sprinkler should open prematurely it would ruin goods worth five or ten thousand dolllars and still we tell the man putting in the sprinklers that we will give you insurance against that kind of damage practically free of charge. That is, we have tried that out by twenty-five years' experience, and we are ready to take the risk.

Q. And so far as the customer is concerned, he need not have any fear about it? A. No.

Mr. Hurrell: Mr. Westover, will you just take the stand for a moment, please?

M. F. Westover, recalled.

By Mr. Hurrell:

Q. I wanted to ask you, Mr. Westover, how much you depend upon the city department in Schenectady as a fire protection? A. We have very friendly relations with that department, but to my knowledge they have never been in our yard but once, and that was on the occasion of the destruction of a building which we did not sprinkle, as the mutual companies had required. That occurred in a morning on a winter's day when there was much snow on the ground and lasted two or three hours, and the city department then assisted.

Q. So that you would not say that the presence of your plant made a prospect of extra work to the city fire department or vol-

unteer fire department at the city of Schenectady? A. None whatever. We have very much more frequently given assistance to the city than they did that to us.

Q. Do you do that occasionally? A. We have often given them assistance. We have a very large pumping capacity which, to an extent, could be given to the city in case of necessity.

The CHAIRMAN: The Committee will stand in recess until 2 o'clock P. M.

Recess until 2 o'clock P. M.

AFTERNOON SESSION

2 P. M.

Chairman MERRITT: The Committee will be in order.

CHARLES F. MURPHY, called as a witness, being duly worn, testified as follows:

By Judge BRUCE:

Q. Where do you reside, Mr. Murphy? A. 392 Clinton avenue, Brooklyn.

Q. And what is your business? A. I am a lawyer by profession.

Q. And where are your offices? A. 50 Church street, New York city.

Q. Have you served in the Legislature of the State of New York? A. Yes, sir, for five years.

Q. During what years? A. From 1905, January, 1905, until January 1st, 1910, or about the middle of the year 1909.

Q. Were you a member of the Committee on Codes in the Assembly during the session of 1908? A. Yes, sir.

Q. Chairman of that committee? A. Yes, sir.

Q. Do you recall there having been introduced in the session of 1908, bills which are known as the anti-race track bills? A. Yes, sir.

Q. And that these billls were pending in the regular session and failed of passage in the Senate? A. I did.

Q. And that they were subsequently introduced and passed in the extraordinary session convened by the Executive? A. Yes, sir.

Q. Are you acquainted with Frank J. Gardner? A. Yes, sir.

Q. And how long have you known him? A. About eight years, I think.

Q. Did you see Mr. Gardner while in Albany during the session of 1908? A. No, sir.

Q. Did you have a conversation with him here in New York with reference to the bill, or while the bill was pending, during the regular session of the Committee on Codes of the Assembly? A. Only once.

Q. And where did that take place? A. At the Manhattan Hotel, I believe.

Q. In New York city? A. Yes, sir.

Q. Borough of Manhattan? A. Yes.

Q. And about what time? A. I think it was during the regular session; in fact I am sure it was during the regular session.

Q. At that time the bill, which afterwards became a law, and was known as the Agnew-Hart bill still pending before your committeee in the Assembly? A. Yes, sir.

Q. What did Mr. Gardner say to you and what did you say to him? A. I think this was the day before the bill was reported out of the committee, and Mr. Gardner asked me to hold the bill in committee for a couple of weeks.

Q. For what purpose? A. He did state the purpose.

Q. Did he state to you in words or in substance, until he could get to work in the Senate? A. He did not; no.

Q. What did he say was the purpose of withholding the bill? Why he wished it held? A. He made no statement why he wished it held; simply asked me to hold it.

Q. Did he state what interest he had in the bill? A. He did not.

Q. What his connection with the bill was? A. He did not.

Q. Did you inquire? A. I did not.

Q. Did he say anything to you with regard to offering to give a consideration if the bill was held in the Assembly committee?

A. In no way did he make any consideration, or offer any consideration.

Q. Did you inquire of him in any way why he wished the bill held? A. I did not. I only had two minutes before the train left and did not care to talk relative to the question in any way.

Q. Was that the entire conversation? A. That was all the conversation.

Q. He simply asked you to hold the bill in the committee for two weeks? A. That was all.

Q. And what did you say? A. I told him it was impossible. That the committee had stated its attitude upon the bill, and that undoubtedly the bill would be reported at the next meeting of the committee.

Q. And what did he say to that? A. He made no statement whatever relative to that.

Q. Was the bill reported at the next meeting? A. It was reported out the next night.

Q. Did anyone else besides Mr. Gardner approach you with reference to holding that bill in the committee, or with reference to the action to be taken upon it? A. A great many thousand people approached me relative to the bill; that is, talked to me relative to the bill.

Q. Did anyone ever approach you with the request that you hold the bill in the committee? A. No, sir.

Q. Did anyone ever approach you, if I may use the word in a sinister way, with reference to your action upon the bill either before the committee or in the house? A. No, sir. In the five years I was in the Legislature I know of no such thing. That is at no time could I say that such an action took place.

Q. And you have never stated to anyone, have you, that you were so approached? A. I have not.

Q. And you never stated to anyone that Senator Gardner, at the time he spoke to you in the Manhattan Hotel, or at any other time, offered you any consideration for holding the bill in the committee? A. I have not.

HUGH N. KIRKLAND, called as a witness, being duly sworn, testified as follows:

By Judge BRUCE:

Q. Where do you reside, Mr. Kirkland? A. Morris Heights, New York city.

Q. And what is your business? A. Banker.

Q. And with what institution are you connected? A. Cashier of the Mutual Bank.

Q. You were subpoenaed, were you not, to produce a certain transcript of the account of the Metropolitan Turf Association with your association, covering a certain period? A. Yes, sir.

Q. Covering what period? A. We were subpoenaed from January 1st, 1907, until January 1st, 1910.

Q. Have you produced the transcript of the account of that organization during that time? A. With two exceptions, sir.

Q. What exceptions? A. The account did not open with us until December 18th, 1907. That is one exception. The other is that from February 17th, 1908, until June 11th, we are not able to furnish you a transcript.

Q. Why? A. Owing to the loss of a ledger.

Q. What ledger? A. The ledger which this account is in. One of them we call the "M," I believe it is. We know them by letters, you know.

Q. You lost the ledger of the bank? A. Yes, sir.

Q. How did that happen? A. We do not know, Mr. Bruce. We presume it was carrried out with the waste paper.

Q. The ledger for 1908 was carried out with the waste paper? A. Yes, sir. We know we used the ledger as late as January 10th. Our boys have knowledge that we used the ledger in that period.

Q. Well, now, when you used it on January 10th, where was it? A. With the other books of the bank in the vault down stairs.

Q. In the vault down stairs? A. Yes, sir.

Q. And how soon did you notice that it had disappeared? A. Well, in the early part of January, 1910, or rather the later part of January, 1910.

Q. You discovered it had disappeared? A. Yes, sir. As near as we can trace we used the book the early part of January, 1910.

Q. It was then in the vault down stairs? A. Well, you would hardly call it a vault. It was in with all the other books that we used down stairs.

Q. In where? A. In the Mutual Bank.

Q. Well, in what sort of a room? A. Well, it is what we call a "Dead book room," where all the dead books of the bank are kept.

Q. Is it protected by doors and locks? A. No, sir. Accessible to all the clerks of the bank. Not the customers, or anything of that kind.

Q. Well, how is it protected from the entry of any person who has not business there? A. Well, it is behind our counters which are, of course, protected by doors and that sort of thing.

Q. Is it a fireproof rooom? A. No, sir.

Q. And how did you happen to discover it was gone? A. Well, when we came to use it in making up some pass book or something of that sort that was presented — we had to use our books. They are in constant use. I won't say constant, except at occasions like this or something of that sort.

Q. Was there any other ledger gone besides this one? A. No, sir.

Q. This was the ledger that had the account of the Metropolitan Turf Association? A. Yes, sir.

Q. Covering the period from February to June 11th? A. From February until June, yes, sir.

Q. Any particular date in June? A. Yes, sir; June 11th.

Q. What search have you made for it? A. We made a most thorough search, Mr. Bruce.

Q. What did you do? A. Not only in January, but since then. I may explain that our quarters are very cramped, and we have had to take a part of our books, what we call dead books, up to the Safe Deposit Company, Manhattan Safe Deposit Company, and we have searched there, and we have searched in the bank many times. We have made a most thorough search.

Q. It is a most unfortunate circumstance, because that is just the period during which we wanted this account? A. I regretted

it extremely, sir. We can, of course, furnish you with the original deposit tickets, but we have no note of the charges.

Q. But you have a list of the deposits? A. We have not a list, but we can get the original deposit tickets, the ledger being gone we won't have a list.

Q. Have you made up that part of the account from the original deposit slips? A. No, sir. We could only give you the deposit slips. We would have to go through one by one each day.

Q. Were the deposits large and frequent? A. I have no knowledge, sir.

Q. Oh, you are not familiar with the account? A. No, sir.

Q. I wish you would do that, because it is exceedingly important. It is from February to June, 11th, because that is the very day these bills passed which we are inquiring about, that we are concerned about, and if you will make up, if possible, the deposits during that period from the deposit slips? A. We can do that, sir. We can get the original deposit tickets.

Q. Did you ever lose a ledger before in the bank? A. No, sir.

By Chairman Merritt:

Q. How many accounts were there in this ledger? A. I should say between six and eight hundred.

Q. On how many occasions have you had to examine that book, can you tell? A. Since that time?

Q. Yes. A. I could not tell you offhand, but a number.

Q. For the purpose of writing up accounts, pass books and one thing and another of that sort? A. Yes, sir; various information; interest being credited or something of that sort.

Q. Do you know when it was first missing? A. Yes. We had traced that, I believe, to about January 10th.

By Judge Bruce:

Q. The balance has been carried over into other books? A. Yes, sir; we have, before and after that date, a transcript of the account. With that exception it is here.

Q. Well, will you furnish and send down to us as soon as possible a list of the deposits during that period? A. Yes, sir.

You see you will have to take the deposits for six months, each day's work: and go through that. I believe that can be done offhand.

Q. How soon could you furnish that? A. Why, I think we could do it in a day.

Q. Well, if you will do so, we will be obliged? A. I will, sir.

CHARLES E. CALHOUN, called as a witness, being duly sworn, testified as follows:

By Judge BRUCE:

Q. Where do you reside? A. East Orange.

Q. What is your business? A. Chief clerk of the Lincoln Trust Company.

Q. The Lincoln Trust Company was subpoenaed, was it not, to produce a certain account here to-day? A. Yes, sir.

Q. What account? A. Metropolitan Turf Association.

Q. Covering what period? A. January 1st, 1908, to January 1st, 1910.

Q. And you have produced the account? A. Yes, sir.

Q. This is the only account that they have with you? A. Yes, that is the only account that they have.

Q. And this is the complete transcript? A. This is the complete transcript.

HUGH N. KIRKLAND, recalled.

By Judge BRUCE:

Q. You were also subpoenaed to produce any vouchers in your possession belonging to the Metropolitan Turf Association? A. Yes, sir.

Q. And are these the only ones you have, the ones you have produced? A. Yes, sr.

Q. When was the last return of vouchers made to the association? A. It is done every month; that would be December 1st. Our system is that we make up a statement which is ready the 1st of every month for our customers.

Q. And you return the vouchers whether the book is presented to be balanced or not? A. Yes, sir; we never balance a pass book.

JOHN K. COAKLEY, called as a witness, being duly sworn, testified as follows:

By Mr. KRESEL:

Q. Mr. Coakley, where do you live? A. 82 West 103rd street, New York city.

Q. What is your business? A. An accountant.

Q. And by whom are you employed? A. I am assistant treasurer of the Westchester Racing Association, officially.

Q. And are you at the same time employed by the banking house of August Belmont & Company? A. I am.

Q. And what position do you hold there? A. I am the assistant accountant there; you might call it the second accountant.

Q. Second accountant? A. Yes; there is one over me.

Q. And where is the office of the Westchester Racing Association? A. They have two offices; the administration office is at 23 Nassau street, and the racing office is in the Windsor arcade.

Q. The administration office is in the office of August Belmont & Company? A. Strictly speaking, yes.

Q. And who are the officers of the Westchester Racing Association? A. Mr. Belmont is president; the vice-president is Mr. Keene, James R. Keene, I believe; there is no treasurer at present; the former treasurer resigned; he resigned as treasurer and secretary. I am the assistant treasurer. The directors are seven.

Q. Do you know who they are? A. Mr. Belmont; Mr. Harry Payne Whitney; Mr. Keene; Mr. Duryea; Mr. Thompson; and Mr. Howland, but Mr. Howland has resigned; he resigned some two years ago, I believe, before he took a trip around the world; he resigned in case his position might be filled during his absence.

Q. You have mentioned only six; do you recall the seventh; Mr. Hitchcock? A. No; I can furnish it, I will recall it later.

Q. Now, in 1908, were the same officers holding office? A. The same officers, yes, except as regards the treasurer.

Q. Do you keep the books of the Westchester? A. They are in my charge now, yes, sir.

Q. For how long have you been keeping those books? A. Since June, 1909.

Q. And before that who kept them? A. The former treasurer, Mr. Pelz.

Q. What books do you keep? A. Regular set of accounts, cash, ledger and journal.

Q. Cash book, ledger and the journal? A. And the racing ledger; that racing ledger is simply the details of the racing; that is all in the books.

Q. But of the general books of account you have a cash book? A. Yes.

Q. And a journal? A. Yes.

Q. And a ledger? A. Yes, and a ledger; they are all in one book there.

Q. That is, you keep the cash book and journal and ledger entries all in one book? A. All in one book; yes, sir.

Q. And have you produced the books of account of the Westchester Racing Association for the years 1907, 1908 and 1909? A. Yes, they are all there.

Q. Now, what system of vouching have you in the Westchester? A. Well, it is a regular system of printed vouchers showing the nature of the payment, the approval of thte officers whoever pay it, the officers who have authority to pay it, and on the bottom is the receipt of the party to whom the payment is made, all numbered and whenever they are received back we file them away.

Q. That is, you have a regular blank form of voucher? A. Yes, sir.

Q. Consecutively numbered? A. All numbered consecutively.

Q. And no payments are made except the voucher is signed by the proper officer? A. Yes, sir, absolutely.

Q. And who is the officer of the Westchester Racing Association who has the power to order payments made? A. The president, and in the absence of the president the managing director authorizes any payments, and the treasurer.

Q. So that your vouchers bears the signature either of Mr. Belmont as president or of some other officer? A. Yes, sir.

Q. Hove you a legal expense account? A. There is a legal expense and miscellaneous account here; we carry it all in one account.

Q. You have a separate legal expense account? A. Yes, sir.

Q. Will you turn to your legal expense account for the year 1907? A. Yes, sir.

Q. Have you it? A. I have it here.

Q. Will you tell us how much your legal expenses were in 1907, according to your book? A. $18,062.79.

Q. And in 1908 how much were your legal expenses? A. They netted $39,305.45.

Q. Have you there the legal expense account for 1909? A. Yes, sir.

Q. And how much was that? A. It showed a credit balance of $224.12; that was due to a refund, a refund and over-payment of previous years; that is what that was.

Q. How much was the refund? A. In 1909 there was a refund of $524.12 received from A. Daingerfield.

Q. And that credited a credit balance of how much? A. $224.12.

Q. So that your legal expenses in 1909 were how mpch? A. Nothing. In 1909 it was a credit.

Q. Now, turning to the legal expense account of 1908, the expenses are itemized there, aren't they? A. Yes, sir.

Q. Under date of February 8, 1908, dou find there a payment of $5,000 to Mr. Minton? A. Yes, sir.

Q. That is Mr. Morris M. Minton? A. Morris N. Minton, that is the name.

Q. How does your entry read there for that item? A. On account publicity account.

Q. On account of publicity account? A. Yes, sir.

Q. Now, is this the voucher which directed the payment of the $5,000 to Mr. Minton? A. 9039 is the number.

Q. 9039, that is correct, that is the voucher, isn't it? A. Yes, sir.

Mr. KRESEL: I will have that marked, please.

(Admitted and marked Exhibit No. 50.)

Q. This voucher reads, "To M. M. Minton, February 8, 1908, to be charged against the Racing Associations Contribution to Publicity Account, $5,000?" A. Yes, sir.

Q. Underneath that there are the words, "Advanced on account?" A. Yes, sir.

Q. That is in Mr. Belmont's handwriting? A. Yes, sir.

Q. And has Mr. Belmont signed this voucher? A. Yes, sir.

Q. Underneath the receipt signed Morrris M. Minton—— A. That is his signature.

Q. —— is the receipt for the $5,000? A. Yes, sir.

Q. And is this the check by which the payment was made? A. Yes, sir.

Mr. KRESEL: I will have that marked.

(Admitted and marked Exhibit No. 51.)

Q. That check too is signed by Mr. Belmont? A. Countersigned by him.

Q. And signed by Mr. Pelz as treasurer? A. Yes, sir.

Q. And this money was paid, I take it? A. Yes, sir.

Q. I notice that this check was not deposited in any bank; that would indicate that Mr. Minton turned the check back to August Belmont & Company and got the cash for it? A. It would indicate that, yes, sir.

Q. The check is drawn on August Belmont & Company? A. Yes, sir.

Q. So that the check was drawn and handed to Mr. Belmont and he immediately got the cash for it? A. Mr. Minton got the cash.

Q. I mean Mr. Minton. A. Mr. Minton, yes, sir.

Q. And that was for publicity? A. Yes, sir.

Q. Now, on the 14th of February, 1908, have you there an item of payment to Mr. Fitzgerald? A. C. J. Fitzgerald, yes, sir.

Q. And how much was that payment? A. $2,216.50.

Q. And do you know who Mr. Fitzgerald was? A. No, sir.

Q. You don't know? A. I am not acquainted with him.

Q. And to what account is that payment charged? A. Legal fees and miscellaneous fees, etc.

Q. I mean, how does the item read in your account there? A. "On account Publicity Account."

Q. On account publicity? A. Yes, sir.

Q. Is this the voucher that ordered that payment? A. Yes, sir.

Q. And that is signed by Mr. Belmont? A. Yes, sir, and Mr. Pelz.

Q. As treasurer? A. Yes, sir.

Mr. KRESEL: I will have that marked.

(Admitted and marked Exhibit 52.)

Q. Is this the check by which the payment was made? A. Yes, sir.

Q. And that is countersigned by Mr. Belmont? A. Yes, sir.

Q. And signed by Mr. Pelz, as treasurer? A. Yes sir.

Mr. KRESEL: I will have that marked.

(Admitted and marked Exhibit 53.)

Q. And that was for Publicity? A. That is what it shows.

Q. Now, under date of February 21, 1908, have you a payment there to Mr. Minton of $1500? A. Yes, sir.

Q. And how does that item read? A. "On account Publicity Account."

Q. On account of Publicity Account? A. Yes, sir.

Q. I show you this voucher No. 9058; is that the voucher which directed the payment of the $1500? A. Yes, sir.

Q. And that is signed by Mr. Belmont? A. Yes, sir.

Q. And by Mr. Pelz? A. Yes, sir.

Q. And that reads "February 21, 1908, for Account Publicity Account, to be charged against Racing Associations Contributions to Publicity?" A. Yes, sir.

Q. "Advanced on account $1500?" A. Yes, sir.

Mr. KRESEL: I will have that marked.

(Admittted and marked Exhibit 54.)

Q. And is this the check by which the $1,500 was paid? A. Yes, sir.

Mr. KRESEL: I will have that marked.

(Admitted and marked Exhibit 55.)

Q. That bears the endorsement of Mr. Minton? A. Yes, sir.

Q. And it is cashed? A. Yes, sir.

Q. So that Mr. Minton drew the cash? A. He got that cash.

Q. And that was for publicity? A. It is marked here "Publicity."

Q. On the 5th of March, 1908, have you a charge there of $250 for Mr. Thornton? A. Mr. Amasa Thornton, yes, sir.

Q. And how does the item read in your book? A. "On account Publicity Account."

Q. Also "On account Publicity Account?" A. Yes, sir.

Q. Is this the voucher by which that payment was ordered? A. No, sir; you have got the wrong voucher there.

Q. Have I? A. You have given me one of Mr. Minton's vouchers, the same amount, but this is Amasa Thornton.

Q. This is the one, No. 9065? A. Yes, sir.

Q. And that is signed by Mr. Belmont and by Mr. Pelz; and reads, "For account Publicity Account, to be charged against the Racing Associations contributions to Publicity Account?" A. Yes, sir.

Q. "Advanced on account $250?" A. Yes, sir.

Mr. KRESEL: I ask to have that marked.

(Admitted and marked Exhibit 56.)

Q. Do you know Mr. Thornton? A. No, sir.

Q. I notice there is attached to this voucher a letter from Mr. Thornton which reads as follows. It bears the printed letter head, "Amasa Thornton, Lawyer, 96 Broadway: Personal. March 3, 1908. August Belmont, Esq., 23 Nassau Street. Dear Sir: Unless it makes a great difference to you, I would rather you would send me your check. The amount is not large, and I prefer to have my relations with you if possible. Yours truly, Amasa Thornton." Do you know what that referred to? A. No, sir.

Q. That was for publicity? A. That is what we paid that $200 on that voucher for.

Q. Is this the check by which the payment was made? (hands paper to witness). A. Yes, sir.

Mr. KRESEL: I offer it in evidence.

(Received and marked Exhibit 57.)

Q. And it appears from the check, doesn't it, that Mr. Thornton got the cash, doesn't it? A. Yes, it appears so.

Q. Now, on March 5th, have you an item there of the payment to Mr. Minton of $250? A. Yes, sir.

Q. Is this the voucher by which that was ordered paid? (hands paper to witness). A. Yes, sir.

Q. That bears Mr. Belmont's signature? A. Yes, and Mr. Pelz's.

Q. And Mr. Pelz's? A. Yes, sir.

Mr. KRESEL: I offer it in evidence.

(Received and marked Exhibit 58.)

Q. Is this the check by which the payment was made? (hands paper to witness). A. Yes, sir.

Q. And Mr. Minton got the cash for it? A. Yes, sir.

Mr. KRESEL: I offer it in evidence.

(Received and marked Exhibit 59.)

Q. All of these checks are drawn on August Belmont & Company? A. Yes.

Q. That is, the Westchester Racing Association had its bank account with August Belmont & Company? A. They deposited with August Belmont & Company; they had a regular account there.

Q. Now do you know Mr. W. B. Hunter? A. No, sir.

Q. You have never met him, have you? A. I never saw the gentleman.

Q. Have you in your legal expense account for 1908 a charge against Mr. Hunter? A. Yes.

Q. Under date of May 16th? A. Yes, sir.

Q. $2,500? A. Yes, sir.

Q. And how does that item read? A. On account publicity account.

Q. That was publicity? A. That was publicity.

Q. Now, is this the voucher by which the payment was ordered? (hands paper to witness). A. Yes, sir.

Q. And that bears Mr. Belmonts signature? A. Yes, sir.

Q. And Mr. Pelz's? A. Yes, sir.

Mr. KRESEL: I offer it in evidence.

(Received and marked Exhibit 60.)

Q. Was this the check by which the payment was made to Mr. Hunter? (hands paper to witness). A. Yes, sir.

Q. And that bears Mr. Hunter's signature? A. His endorsement, yes, sir.

Q. And he drew the cash? A. Yes, sir.

Q. I notice underneath Mr. Hunter's endorsement, "Correct, H. I. Pelz?" A. That was to identify him.

Q. That indicates Mr. Pelz took him to your cashier, and identified Mr. Hunter? A. Yes.

Mr. KRESEL: I offer it in evidence.

(Received and marked Exhibit 61.)

Q. Now, this was the payment on the 16th of May for publicity? A. Yes.

Q. Now a few days after that did Mr. Hunter get any more money? A. Yes.

Q. How much? A. Four thousand.

Q. $4,000? A. Yes.

Q. And how does the item read for that expenditure? A. On account publicity account.

Q. And this is the voucher by which it was ordered? (hands paper to witness). A. Yes.

Q. That bears Mr. Belmont's signature? A. And Mr. Pelz's.

Mr. KRESEL: I offer it in evidence.

(Received and marked Exhibit 62.)

Q. Is this the check by which the $4,000 was paid? (hands paper to witness). A. Yes, sir.

Q. And that is countersigned by Mr. Belmont? A. Yes, sir.

Q. And endorsed by Mr. Hunter? A. Yes, sir.

Q. And he drew the cash? A. Yes.

Q. And this time, apparently, he was not identified, he was known. A. The cashier knew him.

Mr. KRESEL: I offer it in evidence.

(Received and marked Exhibit 63.)

Q. Now, did Mr. Hunter get any more money for publicity? A. Yes, sir.

Q. How much? A. A thousand dollars.

Q. When? A. On the 26th of May, 1908.

Q. So that between the 16th and 26th of May he got $7,500 for publicity? A. Yes, sir.

Q. Is this the voucher by which the thousand dollars was ordered paid? (hands paper to witness). A. Yes, sir.

Q. That is signed by Mr. Belmont? A. And Mr. Pelz. Yes, sir.

Mr. KRESEL: I offer it in evidence.

(Received and marked Exhibit 64.)

Q. Is this the check by which the payment was made? (hands paper to witness). A. Yes, sir.

Q. And that is countersigned by Mr. Belmont? A. And signed by Mr. Pelz, yes, sir.

Q. And apparently Mr. Hunter drew the cash? A. Yes, sir.

Mr. KRESEL: I offer it in evidence.

(Received and marked Exhibit 65.)

Q. Now, after the 26th of May, 1908, how much more is charged in the legal expense account of 1908 for publicity? A. There does not seeem to be any more here.

Q. Haven't you there a charge to the Jockey Club of $756.75, under date of May 28, 1908? A. Yes.

Q. That was for press bureau? A. Press bureau account, which is marked here; yes, sir, June 8th.

Q. Is this the voucher by which it was paid? (hands paper to witness). A. Yes, sir; $756.75.

Q. $756.75; that voucher simply reads, "For account of attached bill?" A. Yes, sir.

Q. And the bill attached from the Jockey Club reads: "West-

chester Racing Association, to proportion of account disbursed to date, $6,000 account of Press Bureau, to the Jockey Club, as per agreement of meeting of representatives of Associations in 1907?" A. Yes, sir.

Q. 28.22; that was your proportion? A. Perhaps that refers to the number of racing days.

Q. In other words, the amount spent was $6,000? A. Yes.

Q. And your proportion was 28.22? A. Yes.

Mr. KRESEL: I offer this paper in evidence.

(Received and marked Exhibit 65.)

Q. Was this the check by which the payment was made? A.

Q. Was this the check by which the payment was made? (hands paper to witness). A. Yes, sir.

Q. That is not countersigned by Mr. Belmont, is it? A. No, sir.

Q. And the voucher for that expenditure was not countersigned by Mr. Belmont? A. No, it is signed by Mr. S. S. Howell, who was the managing clerk, and had authority to sign in the absence of Mr. Belmont.

Q. Now, Mr. Coakley, how much was paid by the Westchester Racing Association for publicity in 1908? A. Do you want me to add them up.

Q. Let me see if I can help you; there was the $5,000 to Minton, February 8th? A. Yes.

Q. February 14th, to Fitzgerald, $2,216.50? A. Yes, sir.

Q. February 21st, to Minton $1,500? A. Yes, sir.

Q. March 5th, Thornton, $250? A. Yes.

Q. March 5th, Minton, $250? A. Yes.

Q. May 16th, Minton, $2500? A. Yes.

Q. May 18th, $4,000? A. Yes.

Q. May 26, $1000? A. Yes.

Q. June 8th, to Jockey Club, $756.75? A. Yes.

Q. Now, just see if my addition there is correct, will you? (hands paper to witness). A. That is correct.

Q. And what is the amount then that the Westchester Racing Association spent for publicity in 1908? A. $17,473.25.

Q. And the entire legal expenses for the year 1908 that were paid by the Westchester association? A. $29,305.49.

Q. Now, for all this money spent for publicity that we have been over, have you produced any bills? A. There are no bills, except what are attached to the vouchers there.

Q. Are there any bills attached to the vouchers that I have shown you? A. The Jockey Club has bills there.

Q. With the exception of $756 paid to the Jockey Club, are there any bills for the balance of the $17,000 for publicity? A. No, that I know of.

Q. You haven't produced any? A. I have not.

Q. And as far as you know there aren't any? A. I don't know of any; as far as I know, there is none.

Q. Do you know what services Mr. Minton, Mr. Fitzgerald, Mr. Thornton, and Mr. Hunter performed for this company? A. I understand that Mr. Minton——

Q. Not what you understand, do you know? A. I don't know; I was not personally familiar at that time with those transactions.

Q. Who in the Westchester association had charge of engaging these gentlemen to perform the service? A. Well, I don't know. That was not in the province of the Westchester individually.

Q. I didn't hear that? A. That wasn't the province of the Westchester individually, to engage anybody; it was done by all the clubs together.

Q. Do you know who did it? A. No, I don't know.

Q. Do you know to whom these gentlemen made their reports as to what work they were performing? A. No, I don't.

Q. Have you ever seen any bills rendered by any of these men for services rendered? A. No, I have not.

Q. Now, in November, 1908, the Westchester Racing Association paid to Mr. Sturgis, the treasurer of the Jockey Club, $5,714.29. Do you find a record of that in your book? A. Yes, sir.

Q. That is the voucher, isn't it, by which the payment was made? (hands paper to witness). A. Yes, sir.

Q. Do you know what that payment was for? A. It says, "Account legal expenses." That would be our share of whatever the Jockey Club paid.

Q. That is all you know about it? A. That is all.

Q. You have no personal knowledge of it? A. No personal knowledge.

Q. Were there any payments made to Mr. E. P. Coyne, in 1908? A. Yes, sir.

Q. And what payments were made to Mr. Coyne? A. I find one on September 8th, 1908.

Q. How much was that? A. $3,713.62.

Q. Any other? A. No more here, that I can see.

Q. Do you know Mr. W. C. Person? A. I know him by sight, yes, sir.

Q. Who is he? A. He is a lawyer.

Q. In New York here? A. Yes, sir.

Q. Have you a charge against him in your legal expense account for 1908? A. Yes, sir.

Q. Under date of September 8th? A. September 8th, account of legal expenses, $396.91.

Q. Have you a bill for that? A. A voucher, that is all.

Q. None, except the voucher? A. None, to my knowledge.

Q. You do not know what services he performed? A. No, sir.

Q. Now, what system have you in the Westchester Racing Association of keeping track of your correspondence? A. A regular filing system, B. B. letter files.

Q. That is, you file away the letter received and attached to it is the answer? A. Yes, sir.

Q. And you have those files for the years 1907, 1908 and 1909? A. Yes, sir.

Q. They are separate and apart from any of the files of August Belmont & Company? A. Oh, distinctly.

Q. Do you know whether or not there is any objection to my examining them? A. No.

Q. There is not? A. Why, no.

Mr. KRESEL: That is all, Mr. Coakley.

ALEXANDER EARLOCKER, called and sworn as a witness, testified as follows:

By Mr. KRESEL:

Q. Mr. Earlocker, where do you live? A. In Yonkers, N. Y.

Q. And what is your business? A. Well, that is hard to tell, jack-of-all-trades, I guess.

Q. Are you connected with the Saratoga Racing Association? A. Yes, sir.

Q. And what is your position with that association? A. Well, I am assistant to about all the officers, I guess, you would say.

Q. You really do all the work, don't you? A. That is about it, yes.

Q. You keep the books? A. I do.

Q. You keep the minutes? A. Yes, sir.

Q. You act as secretary at the meetings? A. No,— oh, at the meetings, I do, yes, sir.

Q. And the Saratoga Racing Association has a track at Saratoga, N. Y.? Yes, sir.

Q. And it holds only one racing meeting a year? A. That is right.

Q. And that is in the month of August? A. Well, sometimes we commence in July.

Q. And the usual length of its meeting is about how many days? A. That varies. The days are apportioned by the Jockey Club.

Q. What have they been in the last two or three years, about? A. Well, we have run as many as 24, and as little as 12.

Q. Now, who are the officers of the Saratoga Racing Association? A. Mr. R. T. Wilson is president; Mr. H. P. Whitney is vice-president, and Andrew Miller is secretary and treasurer.

Q. Has Mr. Wilson been the president for a number of years? A. No, only the last couple of years, I think; two or three years.

Q. Was he president in 1908? A. I think not.

Q. Who was president then? A. I think Mr. Hitchcock was, but if you will let me refer to the minutes I can tell you.

Q. Which Mr. Hitchcock are you speaking of? A. Mr. Francis Hitchcock.

Q. See if you can't tell us exactly from the minutes? A. I think it was Mr. Hitchcock. (Witness refers to the minute book.) It was Mr. Hitchcock.

Q. Have you an executive committee? A. Yes, sir.

Q. And do you keep the minutes of the executive committee? A. I do.

Q. Are they contained in that book which you just had in your hand? A. Yes, sir.

Q. And are the minutes of the board of directors in that same book? A. Yes, sir.

Q. In looking over that book I noticed that you held very few meetings in 1908? A. Well, we hold very few meetings any year.

Q. Just look at your minutes, will you please; when was the first meeeting that you had in 1908, according to your minutes? A. Of the executive committee?

Q. Well, of any; either the board of directors, or the stockholders, or the executive committee? A. They may not have been any. Here is one on January 9, 1908.

Q. January 9, 1908; that was a meeting of the stockholders, wasn't it? A. Yes, sir.

Q. For the election of officers? A. That is right.

Q. Or directors? A. That is true.

Q. When was the next meeting, according to your minutes? A. Probably a week or two after that, usually; January 13, 1908.

Q. That was a meeting of what? A. That was a meeting of the board of directors.

Q. When was the next meeting? A. On January 21st.

Q. And that was a meeting of what? A. Board of directors.

Q. Now, when was the next? A. We elected our executive committee at that time.

Q. Who was the executive committee in 1908? A. Mr. Hitchcock, Francis Hitchcock, Andrew Miller, T. R. Wilson, Harry Payne Whitney and R. P. Duryea. We held another meeting on July 22nd, 1908.

Q. That is, between January and July, you had no meeting? A. It seems not.

Q. That is, all the meetings you have minutes of? A. If there had been a meeting we would have had the minutes of it here?

Q. So you conclude there were not any meetings? A. I am sure that there was not.

Q. The next one is in August? A. The next one is in August; yes, sir.

Q. And the next one is when? A. That is the last.

Q. The last is in August? A. Yes.

Q. Now, what books do you keep for the Saratoga Racing Association? A. All the books.

Q. I understand that, but I mean what books are they? A. Cash book and a ledger.

Q. A cash book and ledger? Those are all your books of account, are they? A. Well, there is a racing ledger, but I employ a man to keep that by the week.

Q. I am not speaking of the racing ledger. I am speaking of your general books? A. That is all.

Q. And in these books of account, do you keep a legal expense account? A. No, sir.

Q. Such legal expenses as are incurred are entered under what account? A. Expense account.

Q. Under the general expense account? A. Under the general expense account.

Q. Now, you and I have gone over your expense account for 1907, 1908 and 1909? A. Well, we went over it from 1906 to 1909.

Q. Principally with regard to 1907, '08 and '09? A. Yes, sir.

Q. Now, according to your books, how much were your legal expenses for 1907? A. $2,184.89.

Q. $2,184 and —— A. Eighty-nine cents.

Q. And how much were they in 1908? A. Eighteen thousand five hundred and some odd dollars. I do not remember.

Q. $18,544.14, to be correct? A. Yes, sir.

Q. And in 1909? A. Well, you said you didn't want 1909.

Q. Well, we did take it? A. That is our piece of paper there, you know. You have it, then.

Q. $875? A. Well, it was legal expenses, but I think we questioned that, did we not?

Q. It was $875? A. Yes.

Q. Well, we will assume that it was $875? A. Yes.

Q. Now, your expenses, and I am not speaking of expenses for the track, I mean your general expenses, consist of salaries and rent and running expenses of your offices? A. That is true.

Q. And is the president salaried? A. No, he is not.

Q. The vice-president? A. No, he is not.

Q. The treasurer? A. He is now.

Q. He is now? A. Yes, sir.

Q. When did he commence to be salaried? A. Well, while Mr. Hitchcock was our president he objected to any of the officials drawing a salary, and he did not draw any himself. Mr. Andrew Miller, our treasurer, was always anxious to receive a salary, but when the motion came up it was always laid on the table. They out-voted Mr. Hitchcock at one of the elections of our stockholders, and directly after that they awarded a salary to Mr. Miller, that is they gave him a back salary, all the salary he claimed for previous years since our organization, and they paid that, and then put him on a regular salary.

Q. And how much is Mr. Miller's salary now? A. $5,000 a year.

Q. And was that the amount that was paid to him for back salary? A. Well, I do not think that they paid him the full amount of his claim.

Q. They compromised with him? A. Yes. They compromised. He compromised with them.

Q. And do you recall when it was that Mr. Miller got his back salary? A. Well, it was right after the—I think it was in 1909, because Mr. Hitchcock, I think, went out that year.

Q. No, it was in 1908? A. Was it in 1908 that he got his first salary? It was after Mr. Hitchcock retired as president. I know that must have been.

Q. I direct your attention to the cash book under date of September 14, 1908—no, September 5th, "Andrew Miller, account services 1909, to December 31st, 1908, $23,000." A. Well, yes. There is another item.

Q. And under date of September 14th, 1908, "Andrew Miller, balance account to services 1900 to 1908, $2,000?" A. Right.

Q. That makes a payment to Mr. Andrew Miller for back salary for eight years for $25,000? A. Well, that he received about $10,000 for organizing. He had never received a cent, although he had worked a couple of years before we organized.

Q. That salary and organization expenses then was $25,000? A. That is true. If you will refer to our minutes you will see a resolution was passed.

Q. And that was paid to him in September, 1908? A. Yes. It seemed so. There my memory failed. I thought it was 1909.

Q. Well, look on the receipt side of your cash book. I notice you had to sell some bonds to get this money? A. Well, not all that money; no.

Q. Well, most of the money. Look? A. I am familiar with it.

Q. Under date of September 16th a sale of bonds, four per cent, New York city, 1936, $20,150? A. That is true.

Q. Now, how was it that Mr. Miller's back salary and organization expenses amounted to around $25,000 was delayed in the payment thereof, until September, 1908? A. Well, they were arguing about it amongst themselves for many many years before they gave it to him.

Q. You notice that Mr. Miller's salary, the entry thereof, appears exactly immediately above the payment to E. P. Coyne of legal expenses? A. Merely a coincidence. It is there, though.

Q. Yes, it is a coincidence, that is right? A. It might be anybody else. I might put it anywhere else. You know I could put it down here anyhow.

Q. That is just what I am calling attention to, this coincidence; that the payment of $23,000 to Mr. Miller, on account of services 1900, to December 31st, 1908, is immediately above the payment to E. P. Coyne of legal expenses? A. Perfectly true. One is on the 5th and the other on the 12th, as I see it.

Q. And the balance of $2,000 paid to Mr. Miller for balance account of services, 1900 to 1908, was paid on September 14th; on the very day when you paid all the legal expenses, to wit, to E. P. Coyne, and the Pinkerton Agency, to Philip J. Britt, and again to E. P. Coyne. Have you the checks for which these payments to Mr. Miller was made? A. Certainly have.

Q. And will you produce them, please, at the next hearing? A. If you only had asked me for them, I would have brought them down with me.

Q. Yes. How are payments directed to be made? Does anybody order them to be made? A. How do you mean?

Q. Have you a voucher system? A. I simply have the bill. The bill is turned in to me and I make out the check.

Q. Have you a bill for Mr. Miller's $25,000 services? A. It was not necessary.

Q. Well, you have not any? A. Have not got it.

Q. Well, your account shows that that was for back salary, so called? A. Back salary and organization.

Q. Well, how much was for organization? A. Well, I think he received about $10,000. That is included in that amount.

Q. For organization? A. I think so. If you will let me look at my minute boo'c, I can tell you right away.

Q. Just one minute. I want your recollection first. $10,000 for organization expenses, so that would be $15,000 for back salary? A. I think so. I take it that way; yes.

Q. And when was the Saratoga Racing Association organized? A. In 1901 the present Saratoga association. The association was really organized in 1863.

Q. But the organization for which Mr. Miller was paid $10,000 occurred in 1901? A. That is correct.

Q. Now, you say there is an entry in your minutes? A. Yes, sir.

Q. A resolution? A. Yes, sir.

Q. For the payment of this $25,000? A. Yes, sir.

Q. Will you find it, please? A. 1908.

Q. 1908? A. Yes. Shall I read it?

Q. Under date of what? A. September 3rd, 1908.

Q. Yes. Will you please read that? A. "As the question of claim of Mr. Andrew Miller for his statement was to come up, Mr. Miller retired. After discussion it was moved and seconded that the association settled the claim of Mr. Andrew Miller for his services as secretary and treasurer, and his general business management since his connection with the association, for the sum of $25,000, which shall be in full settlement for his services up to January 1st, 1909, this to include his original claim of $10,000 for his general services in connection with the association during its organization and its first year of racing."

Q. That is under date of September 3rd? A. September 3rd, 1908.

Q. And on the 5th you paid him $23,000? A. Yes, sir.

Q. Now, how far back do your minutes run there? A. June 7th, 1907.

Q. This subject of back salary for Mr. Miller had been the subject of frequent discussion, had it not? A. It had.

Q. It had come up at various meetings? A. Well, no. It never had come up.

Q. Well, have you any record of it in any other meeting? A. No.

Q. Of any question having been raised of the payment of a back salary for Mr. Miller? A. Never.

Q. Now, Mr. Miller is the publisher of a paper called "Life?" A. He is.

Q. A man of large business interests? A. Well, I should say yes; large business interests.

Q. You keep all the books, don't you? A. I do.

Q. You keep the minutes? A. I do.

Q. You attend to all of the payments? A. Yes, sir.

Q. You keep the bank account? A. Yes, sir.

Q. Besides signing checks when required, what else does Mr. Miller do for the association? A. He approves all of our stakes. He goes all over the conditions of our stakes; frames some of them.

Q. Does what? A. Frames some of them. Frames some of the conditions of the stakes himself. Looks after the interest of the affairs at the Saratoga meeting. That is about all.

Q. That is about all, and your president takes general charge of all affairs? A. Well, I could not say that. Mr. Wilson is a very sick man and attends very little to the business. He is not a man in robust health, as you know yourself, I guess.

Q. Now, your legal expenses for 1908 then, not counting this $25,000 back salary, were fifteen thonsand four hundred and some odd dollars? A. 1908?

Q. Yes. A. Yes, I think it was. I think I will look again and see for sure. That is correct.

Q. Have you seen Mr. Miller recently? A. I have not.

Q. Have you had occasion to go to him with any business of the association lately? A. No, I have not.

Q. You do not know where he is, do you? A. I really do not.

Q. You have not communicated with him lately? A. Well, I have had no occasion to do so.

Q. Well, I say you had not? A. No, sir, I have not.

Q. Now, if you will be good enough to bring me those two checks of Mr. Miller's to-morrow, I would be glad. That is all.

ALGERNON DAINGERFIELD, recalled.

By Mr. KRESEL:

Q. Mr. Daingerfield, at the last hearing we were discussing a disbursement of $31,000 for legal expenses in 1908, do you remember? A. I do, sir.

Q. And also a disbursement of $12,500, made by the Jockey Club in 1908, for which they were subsequently reimbursed? A. I do, sir.

Q. You stated at that time that you had had personal charge of the collection of this $31,000, and the disbursement of it? A. I did, sir.

Q. Now, the fact, as I understand, is, that in September, 1908, you were informed that there were $31,000 of legal expenses incurred in 1908, that had to be settled? A. Quite correct.

Q. There was a committee appointed, as I understand it, to settle these accounts and to apportion the disbursement among the various associations? A. There was.

Q. And that it consisted of Mr. Knapp, Mr. Reynolds, and who was the third? A. Mr. F R. Hitchcock.

Q. Now, did you collect from the various associations the $31,000? A I did.

Q. And did you deposit it in the account in your name in the Windsor Trust Company? A. I did.

Q. And have you account of the moneys that you received and deposited in that account? A. In the book you have in your hand, sir.

Q. And will you read those for the record? A. Deposits:

Coney Island Jockey Club	$6,121 64
Saratoga Racing Association	2,691 10
Brooklyn Jockey Club	6,121 60
Coney Island Jockey Club	4,591 12
Empire City Racing Association	3,035 21
Brooklyn Jockey Club	757 73
Queens County Jockey Club	568 30
Coney Island Jockey Club	757 73
Saratoga Racing Association	568 30

Empire City Racing Association	$568 30
A. D. Cross (that is a deposit in error)	10 00
Interest	25 45
A. D. Cross (another deposit in error)	499 17
Metropolitan Jockey Club	4,591 10
Interest	17 61
Metropolitan Jockey Club	568 30
	$31,492 66

Q. And the total is? A. $31,492.66.

Q. Now, having received this money, you subsequently paid it out, did you? A. I did, sir.

Q. And you paid it out in accordance with the directions of this Committee? A. I did, sir.

Q. At the time when the apportionment was made among the various racing associations you had before you information as to how much each of the racing associations had already paid? A. I had, sir.

Q. During 1908? A. I had, sir.

Q. And also the persons to whom this $31,000 was due? A. I had.

Q. Now, have you now, and can you give us now, the figures showing what the racing associations had paid in 1908 before this $31,000 was distributed? A. I could get them in the same way that I got them from the racing associations.

Q. From the racing associations? A. Yes, sir.

Q. I wish I had known that because I should have asked you to do it, and I wish you would do it between now and the next hearing. I want from each racing association an exact figure of how much of the legal expenses paid they paid in 1908, and so far as the racing associations, the Saratoga association and the Metropolitan, you need not bother with them because that I already have. With regard to the others I wish you would get it for me, will, you? A. Yes, sir.

Q. Now, how did you pay out that $31,000; you have a record of that? A. By check, sir.

Q. Will you just give us? A. Check No. 2, Coyne ——

Q. Never mind the check, just give us the party and the amount? A. Coyne, account of F. K. Lord, $1,500.

Q. That is, you paid to Mr. E. P. Coyne for account of F. K. Lord $1,500? A. $1,500. Davies, Stone & Auerbach, $7,496.89; the Jockey Club $10,000 ——

Q. Just one minute. That $10,000 was partly a refund of $12,500 that the Jockey Club had spent? A. It was.

Q. Go on. A. Westchester Racing Association, $2,096.48.

Q. That was a refund to them? A. It was, sir

Q. That is, they had paid more than their proportionate share? A. They had, sir. R. C. Cummings, $3,978.09; A. D. Cross, $10; ditto, $499.17. The Jockey Club, $2,500.

Q. That is the balance of the $12,500? A. It is. Westchester Racing Association, $524.12.

Q. That is another refund? A. It is. Davies, Stone & Auerbach, $1,874.22; C. J. Fitzgerald, $402.33; R. C. Cummings, $568.30; Algernon Daingerfield, $43.06, being interest on this amount. It totals $31,492.66.

Q. The exact amount that you had received? A. Exactly, sir.

Q. Now, did you get bills from the various persons to whom these payments were made showing what the payments were for? A. No, sir; those payments represent a reduced account of these bills, and I do not think I ever saw their original bills.

Q. That would indicate, would it, that you made those payments solely on the authority of the Committee? A. Exactly so, sir.

Q. Now, concerning this $40,000 that was raised in 1908, will you tell us who the associations were that contributed to it, and how much each contributed? A. I gave you that information. I haven't it. The Jockey Club's contribution was $5,174 and some cents, sir.

Q. You have not the figures in memory that you gave me? A. No, sir.

Q. Is this it? A. That is, sir.

Q. Will you just tell us who they were? A. Westchester Racing Association, $5,714.29; Coney Island Jockey Club, $5,714.29; Saratoga Racing Association, $4,285.75; Empire City Racing Association, $4,285.71; Brooklyn Jockey Club,

$5,714.29; Queens County Jockey Club, $4,285.71. The Jockey Club, $5,714.29. The Metropolitan Jockey Club, $4,285.71.

Q. That makes $40,000? A. $40,000.

Q. Do you know whether there was a meeting held at which it was decided to raise this $40,000? A. I think there was, sir.

Q. Were you present at such a meeting? A. I think I was.

Q. Can you tell us who else was present? A. The representatives of the different racing associations; I should say the representatives of each one of those associations so far as my memory serves me.

Q. And was a meeting held some time prior to the 16th of November, 1908? A. I think the meeting was held on the 16th of November, 1908.

Q. Were any minutes kept of that meeting? A. I presume so, sir.

Q. And did you keep them? A. I presume I did, if kept.

Q. Have you seen those recently? A. I have not, sir.

Q. If the minutes were taken would they be in the minute book of the Jockey Club? A. No, sir.

Q. What other minute book? A. I don't know that they would be in any minute book.

Q. Just be a memorandum? A. Just a memoranda on file.

Q. Will you look that up for me and see whether you can find the records of those minutes? A. I will, sir.

Q. This committee that apportioned the $31,000 expenditure had regular meetings at which you acted as secretary? A. They had two or three meetings, possibly.

Q. And you took the minutes of those meetings? A. I did.

Q. Are these the minutes of the meeting of September 26, 1908? A. Those are the minutes of the meeting of September 26, 1908.

Q. Of the sub-committee appointed by the committee of the racing associations to adjust legal and similar expenses? A. Yes.

Q. What other expenses did they adjust besides legal expenses? A. A part of these expenses called legal expenses; a part of the press bureau $402 refunded to Mr. C. J. Fitzgerald were more properly the account of the press bureau than legal expenses.

August Belmont, recalled.

By Judge Bruce:

Q. You have made a request, have you not, Mr. Belmont, of me as counsel to the Committee that you be given an opportunity to add something to the statement which you made the other day upon the record? A. No, sir. Of course any question you would like to ask me I will answer, but I would like the privilege, if possible, granted to me to have my letter addressed to you spread upon either the minutes or the records of this Committee.

Q. Will you just read so much of it as you wish spread upon the record and have it taken down as a part of your evidence? A. Yes, sir, but I should like the entire letter.

Q. Will you kindly read it and then it will become a part of your testimony on the record? A. Very well, sir.

"December 5th, 1910.

"Hon. M. Linn Bruce,
Chief Counsel,
Legislative Investigating Committee,
55 *Liberty Street, New York City.*

"Dear Sir:

"Since the giving of my testimony before your Committee, it has come to my attention, through the newspapers, that a most unfair and distorted view of my connection with racing interests is sought to be imbedded in the public mind. Racing with me now and for many years has been a pastime, not a business. My financial holdings in property used for racing purposes have always been very moderate. The great bulk of my time is devoted to the management of my banking and railroad interests, and I now repeat what I stated to your Committee, that the sweeping allegation of a corrupt use of money to influence legislation was a matter of which it ought to be presumed I was ignorant. I cannot make too emphatic the statement that I have never directly or indirectly, in person or through any corporate or individual channels, contributed, authorized or advised the expenditure of a single dollar to improperly influence legislative action, nor have I been asked to do so.

"The claim is made, as I understand it, that money was used to bribe the members of the Legislature of 1908 to vote against the Agnew-Hart Law. On this assumption, let us look at the facts. The evidence before our Committee shows the existence of some eight racing associations in the territory of Greater New York and vicinity, with but one of which, the Westchester Racing Association, have I any connection. I have also been chairman of the board of stewards of the Jockey Club since its organization fifteen years ago. For some fourteen years, running back to the time of the passage of the Percy-Gray Law, the racing interests have always been involved in numerous and expensive litigations calling for the expenditure of very large sums of money and the retention of a small army of lawyers.

"My interest in racing as a sport has prompted me to maintain a general and not a special supervision of the amount of moneys that were being expended by the associations. It would seem that in 1907 upwards of $40,000 was paid to Judge Coyne for services rendered by him before the Legislature and elsewhere in behalf of racing interests. This money was paid him before the Legislature of 1908 which passed the law crippling racing came into existence. To this sum, if not all, of the associations contributed. The figures, while large, were claimed by him to be reasonable in the light of the work performed. Mr. Coyne had been County Judge and Surrogate of Livingston County, and a lawyer of high standing in the up-State counties. He had as early as 1905 been recommended to me by ex-Congressman Wadsworth, the father of the Speaker, as a very capable lawyer to serve any interests efficiently, and as trial lawyer to represent corporations in which I was largely interested, coupled with the information that while Judge Coyne resided in Livingston County he had been the adviser of the Wadsworth estate. After Governor Higgins appointed Mr. Wadsworth, the elder, Chairman of the State Racing Commission, to take my place, where I had served ten years under appointment from Governors Morton and Roosevelt, while not especially retained by me, it was very natural and logical that Judge Coyne should come to professionally represent racing interests: We were very much interested in securing the active support of Agricultural Societies and Horse

breeders throughout the State and to exert all possible legitimate influence to preserve our legal status intact. In a State wide way Judge Coyne endeavored to represent us. No suggestion was ever made to me that his bills covered any improper disbursements, or that our moneys had been in 1907, or in any other year, used in improperly influencing the Legislature.

"In 1908, the Hart-Agnew Law having been passed while I was in Europe, I undertook on my return, after consultation with my associates, the disbursement of such portion of the fund of $40,000 testified to before your Committee in publicity and legal services as I might be able to arrange, and the items of money paid out from such fund have been correctly given you. The apparent effort in some quarters to so misrepresent the testimony of Mr. Sturgis as to shoulder upon me the burden of the distribution and administration of the many thousands of dollars paid out by racing interests in the last few years through their publicity-bureaus and in laywer's services is most unfair and in conflict with the actual facts.

"I in no way shirk my share of responsibility, but that the public should be persuaded into a belief by juggling with figures that I have soiled my name by stooping to cover up under the guise of lawyer's bills and newspaper expenditures, the bribing of members of the Legislature is a position in which no fair-minded man would wish to place me. Nor shall I ever consent to believe, until the proof is overwhelming to the contrary, that any of my associates were party to, or cognizant of, any opposition to anti-racing legislation which was not under the circumstances perfectly defensible and under legal advice.

"The warfare waged against racing incited a volume of litigation almost incredible in character and extent, going back many years. The life of the sport was at stake. We did everything in our power through our Publicity agents to create and maintain a sentiment among the people that would prevent destructive legislation. We employed the best legal talent that could be had to represent us in the courts, and in this way disbursed large sums of money.

"Should your Committee desire my further attendance, you can reach me by telephone at my office, 23 Nassau Street, and

I will gladly aid you in any way in my power. There must be no opportunity for a misunderstanding as to any acts of mine in regard to racing matters."

Q. The statements contained in that communication, you want them to be considered a part of your evidence? A. Yes, sir, if you will so permit.

Q. Mr. Belmont, do you recall what legislation there was pending in the Legislature in 1906 affecting racing? A. I do not readily; there was — that was the year, I don't recall, the Lansing bill?

Q. Yes, I refer to the Cassidy-Lansing bill? A. That is right.

Q. What was that measure, do you recall? A. Let me see.

Q. It proposd to amend section 351 of the Penal Code, did it not, with reference to the penalty which would be imposed upon bookmaking? A. Yes, sir; I believe as I remember the gist of the movement at that time was to make the same penalty outside of the race course that existed in; to lighten it to that extent.

Q. Didn't the bill change the penalty from being simply a felony, and provide for a specific punishment? A. Yes.

Q. To wit, that the imprisonment shall not be for less than one year nor more than two? A. Yes, sir.

Q. What was the attitude of the Jockey Club towards that measure? A. It was hostile.

Q. Hostile to the measure? A. Yes, sir.

Q. And did it employ attorneys for the purpose of presenting its views with reference to the measure before the Legislature? A. I so remember, yes.

Q. Do you remember the fate of the bill? A. No, I really could not. I was not expecting to be asked any questions on the subject, but whenever we were represented it was open and all matters of record, and I have dismissed the subject from my mind.

Q. Do you remember that the bill died in the Committee on Codes of each house? A. Yes.

Q. Not reported out? A Yes.

Q. Do you recall what legislation there was pending in the Legislature in 1907 with relation to racing? A. Was that — that was the year of Mr. Jerome's bill, wasn't it?

Q. If I recall correctly, Senator Agnew introduced in the Senate, and Assemblyman Stanley introduced in the House, practically the measure that was again introduced in 1908, and which became a law, known as the Agnew-Hart bill, is that correct? A. Yes, sir.

Q. And I presume the attitude of the jockey club and of the racing associations was hostile to the bill in 1907 as it was in 1908? A. Yes.

Q. Who had charge of the expenditures of the moneys on behalf of the Jockey Club or on behalf of the association of the racing associations for the purpose of presenting the views of the Jockey Club and the racing associations to the Legislature in reference to this bill, say in 1906 and 1907, do you recall? A. Well, that is the year, I believe Judge Coyne was at Albany, but there were delegations that went from here too, that had hearings, and I think, if I remember rightly, counsel went there before the Committee.

Q. Do you recall who employed Judge Coyne? A. I do not; I do not, except by general consent among us. All the matters were, as you see, somewhat informal in the sense that when it was proposed that anything should be done the associations met and discussed it and it was generally agreed. I could not tell you who substantially arranged the matter with him.

Q. When Mr. Sturgis was examined concerning the employment of Judge Coyne and also concerning the two bills of $20,000 which he rendered, he gave this answer. I am reading from page 2402 of the record: "The legal business of the Jockey Club was always transacted by Mr. August Belmont under advice of counsel. I had practically nothing to do with the legal side of it. My instructions from the stewards of the Jockey Club were to pay to Mr. Belmont such sums of money, within certain conditions, as he asked for, and to pay such bills as were approved by counsel and endorsed by Mr. Belmont. I knew nothing about other matters in connection with it. O. So that we can take it, can we, that this payment of $20,000 to Mr. Coyne was made under the direction of Mr. Belmont? A. You can." What were the facts in regard to it; is that correct? A. I cannot tell you why he said that; because I can only tell you that that was the fact

with regard to this last $40,000 that was raised, and which is being expended at the present time in the cases that are in the courts at the present time, but I don't know why he should have said that; that may have been his recollection.

Q. Is it the fact? A. It is not the fact, no.

Q. Whose direction if not under your direction, under whose direction were those moneys expended that were expended say during the years 1907 and 1908? A. I do not know; those matters were usually discussed and approved, we approved Judge Coyne's general attention to affairs there; I don't suppose anybody directed him very much in regard to what he had to do.

Q. Mr. Sturgis said he was employed upon the recommendation of Speaker Wadsworth, is that true? A. I believe that was, yes, sir.

Q. Then he was inquired of whether it was Speaker Wadsworth or Speaker Wadsworth's father, who was one of the members of the State racing association; he said Speaker Wadsworth. Is that correct? A. No, that is not correct.

Q. On whose recommendation was he employed? A. I presume on the recommendation of Congressman Wadsworth. though I do not recollect that specifically.

Q. Did Congressman Wadsworth speak to you about it?

Assemblyman COLNE: That is in that letter?

A. I say in my letter that it is most natural that he should be; I cannot recall exactly that, but I had a letter from Mr. Wadsworth, Congressman Wadsworth, in 1905, which I found, in which he recommended Judge Coyne in the manner that I stated, and I imagine from that that it led on to the recommendation.

Q. That letter of 1905 which you received from Mr. Wadsworth had reference to his employment by some corporation in which you were interested, were you not, Mr. Belmont, as a trial lawyer? A. Yes, sir.

Q. And not his employment to represent the Jockey Club or other racing associations in the Legislature; isn't that correct? A. No, not that letter, no.

Q. That letter simply referred to his employment as a trial lawyer? A. Yes, sir.

Q. That was with reference to actions against corporations in which you were interested in this county? A. Yes.

Q. Did you receive subsequent to that time any recommendation from either Mr. Wadsworth, Sr., or Mr. Wadsworth, Jr., in reference to Judge Coyne? A. I have none of record.

Q. Do you know of any having been received? A. No.

Q. What did Judge Coyne do for the $40,000 he received, do you recall, Mr. Belmont? A. Well, I understood that he attended the various sessions and followed the development of the legislation, and I remember that there was a large delegation went from New York, and his suggestion at the hearing, at an open hearing of the Legislature — there were a great many representatives of the agricultural associations there, and I understood that he had brought about the attendance of these various representatives and bodies.

Q. Now, let me go back a step. Who actually retained him, do you recall that? A. That I cannot tell you; I don't know.

Q. Did you? A. No, I did not.

Q. On whose behalf was he retained? A. I cannot tell you that.

Q. Whom did he represent there? A. He represented our combined interests, and the payment for his services was made long after.

Q. Then he represented the combined interests of the racing associations? A. That is it.

Q. Did he represent the Jockey Club? A. The Jockey Club always considered itself a part and joined in the payment of bills of that kind, as you know by the evidence.

Q. Do you remember the circumstance or the occasion when he was retained? A. I do not. I was not very active at that time. I was away in Europe, beginning with the summer, I think, of '97, each summer; I returned early that year, and the following year I was away all the summer. I was not at Saratoga or much at the races. My attendance at the races was not very great during that time.

Q. Have you any knowledge of any services rendered by Mr Coyne other than what you have stated and what are contained in his bills which were rendered, and which have been spread upon the record? A. No, but I knew those were substantial, that he had given up his practice and resided there at Albany.

Q. Was he at the same time representing the corporations as a trial lawyer that he had previously represented? A. Oh, no, sir.

Q. Do you know what he was doing up there all the time during the session with reference to these bills? A. He was following the course of the legislation, and for instance when the occasion for a hearing came he arranged for our attendance there.

Q. And how many hearings were there, do you recall? A. I do not recall.

Q. Not many, were there? A. I do not recall. I told you I was not following that subject so closely.

Q. Do you know whether or not he reported from time to time the progress of matters in Albany? A. I don't know. I presume he must have. I imagine that our counsel were more in touch with him than we were individually in matters of that sort.

Q. Did he report to you or to any committee of which you were a member? A. No, he did not report to me at all.

Q. Now, prior to the year 1908, it was the practice, was it not, for the Jockey Club to represent the racing associations in all legal matters in which they had a common interest? A. No, oh, no. The Jockey Club simply cleared same of these voluntary contributions; somebody had to clear them.

Q. You say cleared; I do not quite get the significance of the word? A. By collecting the contributions and then paying them out, as in this particular instance.

Q. I am speaking now of prior to 1908, if I remember right, Senator Reynolds when he was upon the stand testified that his association, the Manhattan Racing Association, from time to time made contributions to the Jockey Club for legal expenses, because it was the right of the Jockey Club or the practice of the Jockey Club to take charge of all legal matters in which the racing associations had a common interest; was that true? A. Well, Judge Bruce, in racing, the stewards — it is not a business, and consequently men were in consultation with counsel in rather an informal way. It is not like the conduct of a corporation, and the counsel had rather a free hand in doing what they deemed best.

Q. Well it would seem from the evidence adduced here that there at least was a change in the practice after 1907, and that

during the year 1908 each club or each racing association attended to its own matters and the Jockey Club simply made its contribution the same as any other racing association; do you recognize such a change? A. No, I don't think that is correct. It was felt that the interests were in common, and there was an effort always to have each one contribute so as not to have the burden too heavy; if they were all employing lawyers in different directions the burdens would have been very heavy, much heavier than they were.

Q. Then I understand from your recollection that there was no change in the practice after 1907 with regard to taking care of legal matters in which all the associations had a common interest? A. I cannot answer it in that way, because Judge Coyne's employment was the only time that anyone was employed to reside and look out for the interests of racing at Albany. Before that, we had no one there, and were kept advised as best we could.

Q. Now, when Mr. Sturgis was inquired of in regard to that change of practice, the question being: Can you tell us why the change was made in 1908 from the system that was in vogue in 1906 and 1907; and he answered, "Yes." "Q. Will you please tell us? A. In 1908, Mr. Belmont requested that the different associations form a fund, which money should be set aside outside of the Jockey Club's funds, and used for legal expenses, as time wore on, one year or two years after that period, it was kept apart in the Jockey Club's books and was deposited with the Standard Trust Company. Q. Why was that? A. Because it was not Jockey Club expenses that had been incurred, it was the money which Mr. Belmont wanted to be used by him, under advice of counsel, in legal matters which might come up, in connection with our racing interests. Q. That is, the $40,000 was contributed by the various racing associations in 1908 for future legal expenses? A. For future legal expenses." Is that your recollection? A. Yes, but that was not the real reason. When I returned most all the different bills that were paid for legal expenses, were always paid for services which had been rendered. The counsel representing the Jockey Club, and racing associations, in various cases, would conduct them and then after-

wards render their bill. And they were very burdensome; and the associations were losing money, and they had all been paid up to that date, and, therefore, for their future litigation pending, it was necessary to have counsel fees. As they had been large, this fund was raised without the knowledge of counsel; but it was done in order that it should not be known to counsel that a large fund was in — at my disposal, to pay. They were quite aware of what was to be done with the money. It was nothing — it was exactly the same as had been done before. But it was in order to — keep the expenses down as much as possible. In fact,— I have — if it would be necessary to explain that I would rather bring a letter which explains it more fully, written to Mr. Sturgis, with regard to a check which he sent to me, for the payment of counsel fees, or, rather, the retention, it was of counsel.

Q. Now, to come back to my question; is it correct, as testified to by Mr. Sturgis, that there was a change in the practice after 1907? A. Well, not in the practice, so far as counsel was concerned, but I didn't give very much attention to the matter before.

Q. Now, prior to that time you were in the habit of apportioning among the different racing associations the legal expenses of the Jockey Club, were you not? A. Yes, sir.

Q. That is, the Jockey Club ascertained what the expense was to be and you apportioned it among the different associations, did you not? A. Yes, sir; perhaps this will make it more clear ——

Q. Let me show you a letter, written by you to Mr. Sturgis on February 5, 1906, which reads as follows: "Dear Mr. Sturgis: The total legal expenses for the past season of racing amounted to $40,793.18, which I have apportioned among the different racing associations based on the number of days of racing, and the share of the club is the same as that of the Coney Island, Brooklyn, and Westchester Racing Association, $7,745.52, for which I shall be pleased to receive your check." Now, wasn't that the custom prior to that time? A. No, that merely referred to the method that had been adopted, that is all. The calculation, I think, that was one of the cases where the proportion was made according to the number of racing days.

Q. But it seems to have been first taken into account by the

Jockey Club and then apportioned among the different racing associations, is that correct? A. Probably; I cannot tell you the details of that.

Q. Now, after 1908,— or 1907, wasn't that abandoned, and each association after 1908 looked after its own legal expenses? A. No.

Q. They did not? A. No.

Q. Was the same system continued after 1907, as was in vogue at that time? A. I must answer you as I wish, because the question is misleading.

Q. Not intentionally so. A. That is why I must ask you the privilege of stating ——

Q. Let me know how you think the question can be stated, and not be misleading, and I will adopt that way? A. If you will allow me to do so, I will do so. The firm of Davies, Stone & Auerbach have been practically, and have been in fact, for the last fifteen years the recognized attorneys for all the different associations. They have acted even, without any of the associations appearing in court, by reason of the fact that they were representing the racing associations, without any necessary consultation, or none at all. In the cases of arrest they would appear. I cannot say whether they did not appear in any percentage of cases without any particular authority from anyone. As I stated to you, the counsel fees had become very large, and the associations were all losing money, and I had not given very much attention to it; and I recommended this method merely of payment, rather than a method of conducting business. And I volunteered, or was asked, in fact, to give the matter special attention, which I have been doing, but when I ceased to be chairman of the State Racing Commission, I didn't give it so much attention, because that time, for the first time in the history of racing, politics had entered into the appointment of the Racing Commishion, and it was necessary for me to justify the statement I didn't give it as much attention, by telling that, although it may appear extraneous at the present time, it was reported to Governor Higgins that the position of Racing Commissioner carried with it patronage. And that, therefore, when my term expired there were candidates for the position of Racing Commissioner up the State, and I don't

know whether there were any here. And it was necessary to make the matter clear that that was not the case. And I conconveyed that particular information — I have forgotten who through — but that there was no patronage at all, and reduced my search as to that, and found that there had been only two men ever employed at the race courses, by Mr. Pinkerton's force,— and that is practically all,— they manage and supervise all the race meetings,— only two, and that those had been employed at the recommendation of Charles W. Anderson, who was then the appointee of the Comptroller to examine the accounts of the various racing associations, for the purpose of assessing the five per cent of tax, which used to be assessed on the gross receipts of the associations. That was the reason. And then followed the appointment of two commissioners, both of them Republicans, to take Mr. E. D. Morgan's place and mine, notwithstanding there was no patronage, and never has been, connected with the business. And I did not give as much attention after that to matters as I had before.

Q. Now, to what matters do you refer? A. Well, matters in general concerning the progress of litigation. I did not see counsel as much; they were left much more to have their own way about it.

Q. Now, Davies, Stone & Auerbach, when they appeared, whom did they represent; when they made those voluntary appearances? The Jockey Club, or the specific racing association that was interested in the specific piece of litigation in which they appeared? A. Oh, no, they represented any case that arose as a result of racing; if there was an arrest made at the course for an alleged violation of the law, they would see that the parties were represented, so that the entire subject should be understood and attended to by one particular mind or set of minds.

Q. Well, if there was litigation between layers and players, did they appear? A. No, I mean public arrests.

Q. When they appeared for men who sued to recover wagers which they had made, for whom did they appear then? A. I could not tell you in that matter whether they did or not, but the principle is this ——

Q. What I want to get at, Mr. Belmont, is this; isn't it a fact

they did appear for men against whom actions had been brought to collect wagers? A. It may be.

Q. In that appearance were they to be paid by the Jockey Club, or the Racing Association? A. I can't tell you whether their charges included that or not; if they were, that would be contained in their bills.

Q. It is so contained, it appears, and what I would like to know, seeing we are just upon that point of it, in what way was the Jockey Club, or any racing association, interested in furnishing attorneys for the men who had been sued for wagers? A. Because the conduct of racing by the association is under a recognized law. As you know, the law is still upon the statute book authorizing racing. And they are under obligation to see to the enforcing of the law. And the questions of the violations of the law are very difficult ones. The public attends the racing. Every patron considers himself entitled to certain privileges as a citizen. There is no law against betting, and the Legislature did not contemplate stopping that, or they would have mentioned it, and it has never been mentioned in any law that I know that has ever been proposed. The abuse they tried to do away with, that was called an abuse, was what was called "Bookmaking;" and it was the duty of the association, under the Commission, to see that the law was properly enforced. It was necessary that they should know just what that was; and it was through the tests in the courts we should learn what could and what could not be done on their courses for which they were responsible. They have always been responsible for the good conduct of racing, and by reasons of law, an effort has always been made to do so; and to find that out properly, it was right that they should have their counsel in all those cases, in order to form a proper judgment, rather than take them from assorted cases conducted by any one, of any sort of talent,— I wouldn't call it talent,— lawyers.

Q. Now, in regard to this fund of $40,000 which was raised in November, was it not, 1908? A. November, 1908. It was not only for legal expenses,——

Q. What was the purpose of the raising of that money, Mr. Belmont? A. To spend for whatever might be necessary, in order to keep advised of all efforts to add to the difficulties of racing,

that were surrounding racing; to defend whatever suits were in the courts, and to promote, as far as we were able, the dissemination of a proper understanbing about it.

Q. Did you at that time anticipate that the bill which had been introduced in the session of 1907, by Senator Agnew and by Assemblyman Stanley, would also be reintroduced in the session of 1908.

Mr. Kresel: It was after that bill passed.

Q. I withdraw that question. Now, you are president of the Westchester Racing Association? A. Yes, sir.

Q. In 1907, it appears here, or 1908, there was expended something over $17,000 for publicity? A. Yes.

Q. Did each of the other associations also have a publicity bureau? A. I don't think so.

Q. Did any of the others have, that you know of? A. I don't know anything about their policies.

Q. Did the Jockey Club have a publicity bureau? A. Not that I know of; I don't know anything about it.

Q. Was any part of this $40,000 expended for the purpose of paying for publicity work? A. This last?

Q. Yes. A. Yes.

Q. That was an association of the Racing Association? A. Yes, sir.

Q. Now, for what purpose was the $17,500 expended by the Westchester Association? A. That was for the retention of counsel, and is still, covers litigation of cases now in the courts.

Q. But it would appear from the evidence here that that was expended largely for publicity? A. Not the $17,500.

Q. Wasn't any part of that expended for publicity? A. No, not in any way.

Q. How much did they spend, if you know, in 1908, for publicity? A. That is not the year 1908; that is for services extending over the entire period.

Q. I am not talking now, remember, of the $17,500 that came out of the $40,000; I am talking about the money expended by the Westchester Racing Association for publicity? A. I cannot give you details, Judge Bruce. It is impossible; it is too long ago. I don't know the items; you are lumping a sum of various items.

Q. I have a sum here of various items which were expended in 1908 by the Westchester Racing Association for publicity; now, who was Mr. Minton? A. He has a publicity organization.

Q. Where? A. Here in New York.

Q. General publicity? A. I presume so.

Q. And by whom was he retained to do this work in 1908, for the Westchester Racing Association? A. By me.

Q. Do you know what work he did? A. In a general way, yes.

Q. Will you tell us? A. His work was creating a sentiment throughout the State, and all over, in the different newspapers of the State, whenever it was possible to bring the subject properly before the public in any particular.

Q. Did you know what he did besides buying space in newspapers? A. I cannot tell you. That is a sort of work that it is impossible to follow the details of; and it is nothing that I could direct; and you know — I suppose you don't know — but that is so.

Q. Did he render any bills specifying the work he had done, or showing where it had been expended? A. No, not at all.

Q. He seems to have received something like $6,750 for work during that year; did you ask him for details? A. No, that isn't really during that year. I can't tell you exactly how long the period covered was.

Q. Well, now, February 8th, he received $5,000; on the 21st he received $1,500; March 5th, he received $250? A. Yes.

Q. Now, was that for work he had already done, was doing or was to do? A. I cannot recall. Both done, and to do.

Q. Have you that from any bill that he rendered the association? A. No.

Q. Then how do you recall it was work he was still to do? A. Simply by his statements to me, and because it was necessary to have that sort of work attended to, not at any special time for attention to it, but as certain matters arose, at any moment.

Q. Of course, that was during the pendency of the Agnew-Hart bills? A. Oh, no, not necessarily.

Q. From February 8th, when the first payment was made to March 5th, when the second payment was made, those bills were pending in the Legislature? A. I imagine the greater part of the work was done during that time.

Q. Had he to do anything after the bill became a law, after say, June 11th, 1908? A. Certainly; attend to anything that might arise in the way of a tax, either publicly or in newspapers. I really didn't read the papers published up the State. I cannot tell you.

Q. And was the association paying any money in advance? A. Partly.

Q. Was this all for services or partly for services and part for disbursements, because we have no bills? A. I can't tell you, you know. I never asked for a detailed statement of disbursements.

Q. And you never had received them? A. No.

Q. Now, Mr. Fitzgerald, who was he? A. Mr. Fitzgerald was president of the Brighton Beach Racing Association and has been for many years a newspaper man, and he was given the conduct of publicity work as well.

Q. Well, on the 14th of February he received $2,216.50, for which your bills seems to have been rendered. Do you recall what the services were? A. Well, I can't tell you just what those were. When asked to contribute on publicity, we did so. He published, I remember, some pamphlets, and also wrote a great many articles. He was very familiar with racing. He was starter for a great many years, and he wrote articles on the subject which were published in different newspapers.

Q. He rendered no itemized bill, did he, Mr. Belmont? A. Not that I know of.

Mr. Hammerslee Thornton on March 5th received $250, for which he requested your personal check; that he be not paid by the check of the association. Do you recall what that was for? A. Yes. There were quite a number of clerygmen that he knew that believed we were conducting, so he told me, conducting racing in a proper way, and believed that racing was being conducted respectably, and the law was being observed, and that they would when occasion required — I think some of them; I do not know whether all; I am not sure — I do not know whether they went to Albany at these hearings or not, but he asked for a retainer in order to present the matter to them, and he used to come sometimes to my office and ask me certain questions, technical ques-

tions, as to the conduct of racing; how we observed the law and what method we adopted, and Mr. Pinkerton, you know, too ——

Q. (Interrupting) This was for missionary work among the clergymen on the question? A. Some he was especially connected with.

Q. Do you know any reason why he should ask you to send your personal check, Mr. Belmont? A. Did he give any explanation of that? Mr. Hammerslee Thornton?

Q. Yes. A. Why, I considered that he was a lawyer, and it was for his trouble and attention to the matter, and whatever expenses they had, and that he had in going about. It was a very small matter.

Q. You know of no particular reason why he should have asked for that personal check? A. No, I do not.

Q. Now, who was Mr. Hunter? A. Oh, that is very probable, I say that. It is very possible that I did it because to save my own time. It may have been that the treasurer may have been out and not in my office at the time.

Q. But you did not send it as requested? A. What do you say?

Q. You did not send it as requested. He was paid in the ordinary course? A. I see. Well, I do not remember.

Q. Do you know why he requested that there should be an exception made in his case. I know of no reason. I was wondering. A. I do not recall. It was too small a matter. If you will let me see the voucher it might refresh my memory, but he could tell you better himself.

Q. You will note by looking at the voucher that it was paid by the treasurer in regular course? A. Well, it must be that I refused.

Q. You know of no reason why the request should have been made? A. No. Yes, it is for account of publicity account; to be charged against the racing association. Well, it states here that he offered to do some work; and he probably stated that that would be the expense, and I did not want to do it the way he told me. I recall, I think that I do, that I refused.

Q. You know he says "I would rather you would send me your check. The amount is not large, and I prefer to have

my relations with you, if possible." Now, who was Mr. Hunter? A. I cannot recall who recommended him, but Mr. Hunter was a man who was sent to me. In fact, I think, he first called upon me and offered his services to conduct a campaign through the State; going up through the State and securing the letters from people in the various counties who were favorable to racing, to write their representatives, and most of this was spent in stationery and postage.

Q. I notice on February 21st he received $1,500; on May 16th, $2,500; on the 18th $4,000, and on the 26th $1,000 — the February 23rd in Minton. It is written here Hunter. I withdraw that. He received on May 16th $2,500, May 18th $4,000, May 26th $1,000, making $7,500. Was that for stationery and postage? A. Well, yes, sir. The treasurer I thought you had here, that is, the present treasurer, and he told me when I was looking over the items — I could not recall — but there were something like 300,000 letters sent.

Q. Did he render an itemized bill? A. Oh, he gave me memoranda and I know a great deal of the work was done, because it was a matter of public knowledge these letters were sent.

Q. Do you know where Mr. Hunter is now? A. I do not know, I have not seen him since.

Q. Do you know his first name? A. No. It is stated there.

Q. W. B., is it not? A. W. B. Hunter, I think. He has done that sort of work. It is done by organizations. For instance the very organizations who opposed the bill. I received letters, with stamped envelopes, to write to my representative, the representative from my section, in favor of the Agnew-Hart bill, and this was just the reverse.

Q. Now, disbursements which I have read to you, including one for $756.75 for the Jockey Club, from February 8th to June 8th, aggregate $17,473.25. That is, by the Westchester Racing Association. Now, Mr. Belmont, do you know whether other racing associations also carried on a similar campaign, or did the whole burden fall upon your association? A. I cannot tell you. The reason is that a lot of that detail I did not follow, but if you will repeat that question — I do not know what you referred to — this $17,000.

Q. These expenditures for publicity matters to Minton, to Fitzgerald, Thornton, Hunter, and the $756.75 to the Jockey Club, aggregate $17,473.25. That is, by the Westchester Racing Association, between February 8th and June 8th, 1908, and I wish to inquire whether or not you knew whether other racing associations carried on a similar campaign? A. This to Mr. Fitzgerald must have been a contribution, because we did not employ, the Westchester did not employ him. It must have been part of a contribution. We must have been asked to send it to him, because we did not employ Mr. Fitzgerald.

Q. Is that also true of Hunter? A. No, I think that was also included. The treasurer could tell you that, whether that was. I cannot tell you whether it was included in the general fund in the general assessment afterwards.

Q. From which I would infer, therefore, that the other racing associations also paid a like amount? A. Oh, no, no, no. Do not infer anything of that kind.

Q. Well, if it were a contribution, would it be levied proportionately? A. No, I do not say that. I did not say that whatever was paid to Mr. Hunter — I say that, Judge Bruce, if you are trying to extract from me some kind of confusion with regard to these things ——

Q. No. A. If you want to know as much as I can tell you, very well.

Q. I certainly do? A. But I told you in the beginning that I could not tell you very much about Mr. Hunter; whether that was reimbursed in proportion by the other associations I cannot recall, but the expenditure to Mr. Hunter, I think, was advanced. If it was not, then it was paid by the Westchester alone and I know of no other sums paid to Mr. Hunter, and that arrangement, that particular arrangement, was made by me with Mr. Hunter, and I so informed my associates, and I think it must, or should have been — if it was not it ought to have been shared by the rest as well, because it was for their benefit, as well as the rest of us.

Q. Well, how about Mr. Minton? A. I think that also. I am not sure. But if it was not, I do not think anybody else employed him.

Q. Then the only one you think was a contribution was Mr. Fitzgerald's? A. Yes, because I know that his publicity work was done through — by their authority. I do not know much about that.

Q. Now, this $17,500 does not include the $12,000, which was paid out of the $40,000 for publicity, does it? A. I do not know what you mean. I can't answer.

Q. How was that $40,000 expended? A. You will have to show me the items, and I can tell you as nearly as possible. I cannot tell you.

Q. I had understood — see if your recollection agrees with mine — I had understood that there was $9,000 still in the treasury of that $40,000? A. I do not know what you are talking about. Is this the fund that exists now?

Q. Yes. This is the $40,000 that was raised at your suggestion? A. If you will, please make yourself a little more clear, because you jump on from one thing to another that way. You were talking about Mr. Hunter. Of this $40,000 there is $9,000 left still.

Q. How was the rest of it expended? A. As you stated.

Q. $12,000 for publicity? A. $7,000 and $12,000; yes, and $17,500 for lawyers.

Q. Legal expenses? A. One firm that was paid to. Davies, Stone & Auerbach.

Q. Now, come back to my question; the $17,000 expended by the Westchester Racing Association does not include any part of the $12,000 for publicity which was expended out of the $40,000 fund? A. The $17,500?

Q. Yes. A. I told you that that was paid to Davies, Stone & Auerbach.

Q. I am speaking now of this $17,500 expended by the Westchester Racing Association, for publicity, to Mr. Fitzgerald, Mr. Minton, Mr. Hunter, and so forth. Now, I was —— A. (Interrupting) Well, you ——

Q. (Continuing) Just a moment. See if I make myself clear. That does not include any part of the $12,000 which was expended for publicity? A. I refuse to answer until I understand your question.

Q. That is correct; the proper thing to do. A. Prior to asking these questions you asked me if there was not $9,000 left.

Q. Yes. A. Why did you ask me that?

Q. Because I wanted to see how the $40,000 —— A. (Interrupting) No, sir. You did it because you wanted to make me answer in regard to another fund and mislead me.

Q. Oh, no, you are mistaken? A. I insist upon it.

Q. If you have any such impression, I beg your pardon? A. There is $9,000 left in the present fund raised in November, 1908, of which I told you that so much was expended; this $12,000 for publicity work was expended over a period then, and now there was $17,500 paid to Davies, Stone & Auerbach, repaying them for counsel, for cases in courts now, and that has nothing whatsoever to do with anything prior. It is since 1908, after the bill was passed, the one I referred to in my letter. The confusion, if there is any, is brought about by the fact that Judge Coyne happens to be paid $40,000, and this $40,000, and these figures have been doubled and the question asked was to practically confuse me before the Committee and confuses everybody else.

Q. I do not think you have been a bit confused, Mr. Belmont, and I do not think I am confused, and I am going back to my question, and see if I can make myself clear? A. State what you refer to before you ask, because you go from one thing to another.

Q. I will endeavor to be as clear as I can. The Westchester Racing Association, between February 8th, 1908, and June 8th, expended $17,473.25 in publicity, did they not? A. I do not know. Show me the items and I will tell you. I told you that I was not the treasurer, and you ask me questions from slips. I thought you had the treasurer here and the vouchers. Mr. Kresel has been through the books and has got all the checks and all the vouchers, and you are asking me questions in order to try, and through the fact that I can't tell you, to make it appear that there is anything irregular. You know every single thing, Mr. Kresel, about this, and it is not necessary to ask me, but I will tell you as much as I know, for I cannot throw half as much light upon the subject as that you already know from the details.

Now, this does not represent a gross sum. It represents some

sums paid of which you have all the details that could possibly be given you. The vouchers state what they are. You have the checks. You have had all the correspondence, letters that could be furnished you. You have searched everything, and if you do not know, I cannot from memory give you any information, and I will decline to answer any further. You have every single detail that you want. I cannot give you any information.

Q. Mr. Belmont, all I want to know is whether or not any payment of this sum, no matter what it is, any part of that $12,000 was included in the $40,000 that was used? A. I cannot tell you anything about how that was apportioned. The records show it, and you will have to depend upon those, and they are before you. You have had an accountant and you have had Mr. Kresel go through it, and you have asked me questions in order to try and trip me into some mistake.

Q. Oh, no, no, no. A. I beg your pardon, because I cannot inform you half as well as you are informed.

Q. Very true. I simply want to know whether any part of the $12,000 —— A. (Interrupting) I told you twenty thousand times I cannot tell you.

Q. That is a complete answer. I haven't the faintest purpose, Mr. Belmont, to endeavor to confuse you or any other witness, and if I have appeared to do so, my actions have belied my purpose. A. Well, sir, you have confused yourself in two sums, in asking me questions, because we found ourselves talking about two different things.

Q. That was most unfortunate. Now, has there been any money expended, that you know of, since 1908, by the Westchester Racing Association for publicity? A. I know of no other than that which is in the accounts, and you must rely upon those. The vouchers state whatever there are.

Q. Is there anything you wish to state upon the record further, Mr. Belmont? A. No, I would like to look over that.

Q. I will see that you have a copy of the evidence, and if you wish to correct any part of it, or if you find you have not made matters clear, you may have an opportunity of doing so. A. I desire to state this: that the treasurer of the association was under examination by you. Every voucher, every check, and all the ex-

planation was given to you from the records that could be given; that I could not add anything to them; that I do not know as much as those records would show, and, therefore, the questions which you have asked me, to my mind, are a presumption that there is something else than those records.

Q. Oh, no, you are entirely mistaken? A. Then, as I cannot give you as much as the records, it seems peculiar for you to ask me after I have told you that I did not know.

Q. No, the fact why I was led to make these inquiries about these expenditures was this: that while vouchers have been given, and receipts given, neither the receipts do not contain any itemized statement of the services, and consequently I inquired of you to find out if you knew what the service was that was rendered by the different persons. They are not in the receipts? A. You did not ask me that. You were asking as to whether that fund, as far as I can understand, was apportioned or not, and I could not tell you that. You asked me, and you tried to make me say, that if that $17,000 was expended in a certain way, wasn't that apportioned or not, and if it was, didn't all the other associations spend an equal amount. Well, you know ——

Q. (Interrupting) The books give us no light upon it? A. That is what you tried to make me say.

Q. Just a moment. The books give us no light upon that. There is nothing in the books of your association nor the Jockey Club which throws the least light upon that, and the only source of information we had was you, Mr. Belmont, and if we had any other source of information, I would have made no inquiry whatsoever. Is there anything further you wish to state upon the record? I will give you an opportunity, as I said, of examining the evidence. A. I will thank you for that statement you have made. I cannot put you on the stand, Judge Bruce, but if I had the record I would find that that was not quite the point.

Q. That is my understanding, and I may be in error. I am not infallible at all, but so far as I have been able to examine, in the brief time I have had, it led me to believe that there was no itemized statement of services, which I have inquired about, in this publicity campaign? A. I told you that. That did not seem to be the purport of your question.

Q. That is what I had in mind. A. I answered that. It was hypothetical, a little, Judge Bruce.

Judge Bruce: I did not want to be hypothetical.

Robert G. Cumming, called as a witness, being duly sworn, testified as follows:

By Mr. Kresel:

Q. Mr. Cumming, you are an attorney and counsellor at law? A. Yes, sir.

Q. You have an office at 60 Wall street? A. Yes, sir.

Q. How long have you been admitted to practice? A. About twenty years.

Q. Have you ever performed any legal services for the Jockey Club? A. I have, yes, sir.

Q. And in what year? A. Beginning in 1895.

Q. And consecutively from that time? A. Not consecutively from that time, no, sir.

Q. Did you perform any services in 1908? A. Yes, sir.

Q. And in 1907? A. No, sir.

Q. And in 1906? A. Yes, sir.

Q. Now, for the services that you performed in 1906, you rendered a bill? A. Yes, sir.

Q. Did you render any bill for the services you performed in 1908? A. I think I rendered a bill to Davies, Stone & Auerbach, yes, sir. If you will allow me to explain the circumstances of my retainer.

Q. Yes. We will come to that in a minute. That is, you were retained for different services you performed in 1908, by Davies, Stone & Auerbach? A. Yes, sir.

Q. Is that the fact also with regard to the services you performed in 1906? A. Yes, sir.

Q. We will now confine ourselves first to the services that you performed in 1906. Were those rendered in connection with any action pending in court? A. They were not, no, sir.

Q. No? Now, in a general way, what were those services? A. I was retained sometime early in the winter of 1906 by Mr. Auerbach as associate counsel of the Jockey Club — 1906. He

said that he wished to be able to consult me at any time with reference to pending legislation; to assist him in the prepartion of any bills or amendments that might be desired, and otherwise to counsel with me in his work as counsel to the Jockey Club.

Q. With reference to pending legislation? A. Yes, sir; I believe so.

Q. And your services in 1906 were entirely in connection with pending legislation, is that right? A. They were the rendering of advice and counsel; the preparation of briefs and opinions and memoranda and like aid in connection with legislation; yes, sir.

Q. And when you and I speak now of legislation, we mean legislation pending in the Legislature of this State? A. Yes.

Q. Now, do you recall what particular bills were pending in 1906, in which you collaborated with Mr. Auerbach? A. As I remember, they were similar to the Agnew-Hart bill — at least, they were bills introduced, I remember, by Senator Cassidy in the Senate, and I forgot who introduced them in the Assembly. In other words, they struck at the Percy-Gray bill.

Q. That is the Cassidy-Lansing bill, is it not? A. I think it was.

Q. And that was almost identical with the Agnew-Hart bill which finally passed in 1908? A. I believe so, yes, sir.

Q. Now, do you recall any particular service that you rendered in connection with that Cassidy-Lansing bill? Let me particularize. Did you go to Albany? A. I did not.

Q. So that your services were confined entirely outside of Albany? A. Yes, sir; both in 1906 and 1908.

Q. I am talking of 1906. You did not do what is known as publicity work? A. No, sir.

Q. Your services were purely legal? A. Yes, sir.

Q. Did you write any briefs in connection with this Cassidy-Lansing bill? A. I did; yes, sir.

Q. You wrote a brief, and was there any other particular act that you did in connection with it? A. Why, I attended a great many conferences during the winter.

Q. With other counsel? A. Mr. Auerbach, yes, and the members of his firm, and members of the Jockey Club who were sometimes present at these conferences.

Q. Now, this question I am about to ask, Mr. Cumming, I trust you won't deem it is offensive? A. No, sir.

Q. Have you any recollection of what the amount of your bill was in 1906? A. I think it was in the neighborhood of $7,000. It was fixed by Mr. Auerbach.

Q. Have you a copy of the bill that you rendered? A. I have not; no, sir.

Q. Was this payment made to you entirely for your services? A. Yes, sir. Except as there might have been some expenses.

Q. Except such as disbursements? A. Yes, sir.

Q. Well, now, is this the bill that you rendered in 1906? (Exhibiting a paper to the witness.) A. Yes, sir.

Q. Let us have it marked.

(The paper referred to was marked Exhibit 66 in evidence.)

Q. I notice that you have a charge here of a thousand dollars to E. Shaughnessy, services general bill, compensation as agreed. Who is E. Shaughnessy? A. Mr. Shaughnessy is a gentleman who is residing in New York.

Q. He is a gentleman residing in New York? A. He was employed by Mr. Auerbach as a general adviser.

Q. Is he a lawyer? A. He is not a lawyer; no, sir.

Q. What is his business? A. Well, the last suggestion he made to me was that he was the leader of the politically unemployed.

Q. Well, that is interesting? Do you know whether he has any employment? A. I do not think he has any definite one at this time.

Q. Did you consult with him in connection with the Cassidy-Lansing bill? A. I think I did.

Q. And what was the nature of the advice that he rendered? A. I do not recollect, exactly.

Q. Well, in connection with what was it? He was not a lawyer. He could not tell you how to draw your brief? A. He was familiar with the political situation in the State, and he advised Mr. Auerbach in reference to those matters. I can't say exactly the details of the advice he gave.

Q. I am not inquiring of the advice he gave Mr. Auerbach.

I am referring to the advice he gave you. I understood you to say that he gave certain advice to you in connection with what did he give advice? A. In connection with political matters in the State.

Q. Of what political matters? A. The political relations of men, and their relations to measures. That is as near as I can say.

Q. The political relations of men in the Legislature? A. And out of the Legislature.

Q. In and out of the Legislature? A. Yes, sir.

Q. Do you mean that he told you what his opinion was as to how a certain man would vote on this bill? A. No. He was not employed by me.

Q. I did not say he was? A. He was employed by Mr. Auerbach, and it was merely included as an item of expense in my bill. His advice was given to Mr. Auerbach and not to me.

Q. Then he did not give you any advice? A. Except as I was present in conferences at which Mr. Auerbach was also present.

Q. Let us understand it, now. Did he ever give you personally any advice in connection with the Cassidy-Lansing bill? A. I do not recollect.

Q. You do not recall, but you do recall being present at conferences? A. Yes, sir.

Q. With Mr. Auerbach, at which Mr. Shaughnessy was there and gave advice? A. Yes, sir.

Q. Well, now, do you recall any particular members of the Legislature that Mr. Shaughnessy talked about and gave advice about? A. I do not at this time; no, sir.

Q. You do not? A. No, sir.

Q. Is that all that he did? He simply rendered his opinion as to what members of the Legislature might do on this bill? A. No, I think not. I think at that time there was a good deal of literary work being done in connection with the racing bill, and he participated in that.

Q. In other words, he did publicity work? A. Publicity work, very likely.

Q. What is he, a newspaper man? A. No, sir; he was formerly a stenographer — in the Senate.

Q. Is he living? A. Yes, sir.

Q. Have you seen him lately? A. Yes, sir.

Q. Where? A. I have seen him at my offices.

Q. Very recently? A. Yes, sir; saw him to-day.

Q. To-day? A. Yes, sir. He comes into my office very frequently.

Q. Where does he make his headquarters? A. At my office.

Q. He makes his headquarters there? A. Yes, sir.

Q. At your office? We are nearer home than I thought we were. Did you discuss with Mr. Shaughnessy to-day his connection with this particular measure? A. I did not.

Q. Well, now, perhaps you can give us information as to his employment, could you; that is, what his work is; what he does? A. He has no definite employment at present. As I suggested to you, he was the leader of the politically unemployed. He is out of a job, in other words.

By Assemblyman Foley:

Q. Was he at Albany that year? A. He was not.

By Mr. Kresel:

Q. Has he ever done any work in Albany? A. Yes, sir.

Q. And was he ever employed around the Capitol? A. He was formerly stenographer to the Senate, I said.

Q. I see, and do you know what year he was a stenographer in the Senate? A. Well, that was some years ago.

Q. Was it prior to 1906? A. Oh, yes.

Q. Before 1906? A. Yes, sir.

Q. And since then do you know whether he has been employed at the Capitol? A. He was not.

Q. He has not been? A. No.

Q. Not since that time? A. No.

Q. Now, you say here concerning Mr. Shaughnessy's thousand-dollar services: "General bill, compensation as agreed." Did you make the agreement with him? A. No, sir. Mr. Auerbach made the agreement.

Q. Mr. Auerbach made it? A. Yes, sir.

Q. Following this charge of $1,000, there is another charge of E. Shaughnessy, services in connection with the fair bill. What was the fair bill? A. I do not recall.

Q. It had something to do with racing interests? A. It must have had, but I do not recall it.

Q. $375. Now, do you know what services Mr. Shaughnessy performed in connection with the fair bill? A. I do not.

Q. Well, did he do — do you know that he ever did anything but publicity work in connection with this bill? A. Well, publicity work — in what sense?

Q. You told us that your recollection was that Mr. Shaughnessy did publicity work in connection with the race track bill? A. In doing literary work in that connection.

Q. What do you mean by doing literary work? Let us understand each other? A. Writing articles for the newspapers.

Q. Writing articles for the newspapers? A. Yes, sir.

Q. And having them inserted in the newspapers? A. I believe so; yes.

Q. Were those his services in connection with the fair bill? A. I presume so, although I do not remember anything definitely in respect to that bill.

Q. You sent Mr. Shaughnessy to Albany? A. He went to Albany occasionally; yes, sir.

Q. In connection with the Cassidy-Lansing bill? A. I do not recollect whether it was in that connection or not.

Q. For this $1,000 that he got in connection with the Cassidy-Lansing bill, did he not make several trips to Albany? A. He might have; I do not recollect at this time.

Q. Didn't you personally send him to Albany? A. I did not, no, sir.

Q. Didn't he go to Albany to see some of the political men, to whom he gave advice? A. I cannot say.

Q. You don't know that? A. He performed entirely under the direction of Mr. Auerbach.

Q. We may take that for granted now that so far as you are concerned, Mr. Shaughnessy did no work under your direction, is that correct? A. I don't know as I would want to make it quite as broad as that. He did no work as a legislative agent or a lobbyist at Albany under my direction?

Q. Very well. Now, here is a charge in your bill for C. H. Betts, service, general bill as agreed, $1,500; who was C. H. Betts? A. Mr. Betts is president of Wayne county, at Lyons.

Q. What is his official capacity? A. He is a newspaper publisher.

Q. What newspaper? A. Lyons Republican.

Q. Has he any political connection? A. He is State Committeeman from that district.

Q. State Committeeman? A. Yes, sir.

Q. Was he State Committeeman, do you know, at this time in 1906? A. I think not.

Q. Did you engage Mr. Betts? A. I engaged him in behalf of Mr. Auerbach, yes, sir.

Q. What did you engage him to do? A. He was to act as a publicity agent in creating sentiment in the rural newspapers.

Q. Did you say that he was proprietor of this newspaper that you mentioned? A. Yes, sir, the Lyons Republican.

Q. Did Mr. Betts have any connection with the Legislature at this time? A. I do not recollect; at some time he was head of the Revision Department of the Legislature, and he might have been at that time.

Q. Now, it is Charles H. Betts that you are referring to? A. Yes, sir.

Q. I direct your attention to the Legislative Manual for 1906, wherein it appears that Charles H. Betts was chief of the Revision Room in that year? A. Yes, sir.

Q. The Revision Room of the Assembly? A. Yes, sir.

Q. So that you engaged Mr. Betts to do publicity work? A. Yes, sir.

Q. In favor or against the Cassidy-Lansing bill? A. In opposition.

Q. Did you make these payments to Mr. Betts? A. I did.

Q. Personally? A. Yes, sir.

Q. In check? A. I do not recollect, check or draft probably.

Q. Check or draft? A. Yes, sir.

Q. And these payments to Mr. Shaughnessy, you made those? A. Yes, sir.

Q. By check or cash? A I do not recollect.

Q. Have you got your check books for 1906? A. I think so; I think by check; I am not sure.

Q. You are sure that you never sent Mr. Shaughnessy to Albany in connection with the Cassidy-Lansing bill? A. I am not sure that he did not go to Albany; I think he did.

Q. Well, did you send him? A. Whether I sent him or not, or whether he acted under the direction of Mr. Auerbach, I do not recollect.

Q. But you know that he went? A. I know that he went to Albany because I saw him there.

Q. You saw him there? A. Yes, sir.

Q. What did he go there for? A. I suppose to investigate the situation in respect to the bill.

Q. To feel out the Legislature? A. What do you mean by "feel out the Legislature?"

Q. Tell me what you mean by investigating the situation? A. A. To determine the status of the bill in the Legislature, the likelihood of its passage, etc.

Q. And ask members how they would vote? A. Possibly.

Q. Is that what you went to Albany for? A. No, sir, I was there.

Q. You lived there? A. No, I was there at that time.

Q. Were you there in connection with the Cassidy-Lansing bill? A. No, sir.

Q. In connection with other bills? A. Other matters.

Q. Most of your legal experience has been in connection with legislation? A. Well, I should hardly say most of my legal experience.

Q. A great deal of it? A. A great deal of it has been in connection with legislation, drafting, interpretation of constitutionality ——

Q. You made that a specialty? A. Yes, that was the occasion of my retainer in connection with these racing bills; at least I assumed it was.

Q. I notice that you subdivide this bill, general bill, you notice Shaughnessy, for instance, service general bill. Then when you come to charge for your own services, R. C. Cummings, services, general bill; what is that? Where is the distinction

between general bill and some other bill? A. There was evidently more than one bill.

Q. Now, don't you mean general bill means the bill — you do not mean that a general bill means a bill pending in the Legislature? A. I think so; I think it was a general bill in relation to racing.

Q. The Cassidy-Lansing bill? A. Yes.

Q. I see. And among other items for which you charge, you charge for disbursements to Mr. Shaughnessy, $250, and expenses of Mr. Shaughnessy for hotel and traveling and telephone, which was paid by you, $425.40; and disbursements and expenses of C. H. Betts, $200. What expense did he have? A. I don't know. That was the bill he rendered.

Q. And your total bill was $7,252.65? A. Yes, sir.

Q. Do you keep copies of bills that you render to clients? A. I sometimes do; I don't think I have a copy of that bill.

Q. Have you copies of your bills for 1908? A. I don't think so. I looked for it; I did not find it. I don't think I rendered a bill.

Q. You don't think you rendered a bill? A. I think it was agreed upon between Mr. Auerbach and myself.

Q. In 1908, as I understand, you were again retained by Mr. Auerbach? A. Yes, sir.

Q. And in connection with the Agnew-Hart bills? A. Yes, sir.

Q. In a general way what services did you perform in connection with that bill? A. Mr. Shaughnessy was also retained, which covers part of the item of expense. I attended a great many conferences. I advised in council with Mr. Auerbach; I prepared opinions, legal data, some of which was used by himself and some of which was used by Governor Black in his argument before the committee. Governor Black, you recollect, was retained by the Jockey Club. After the Legislature adjourned I spent a good deal of time — I believe it adjourned on April 23 — investigating the constitutionality of the extraordinary session which had been called, and investigated the constitutionality of the special election which was proposed to be held in the Niagara and Orleans district. After the bills finally passed I prepared briefs in the test cases which were pending before Judge Bischoff,

and which were finally determined by the Court of Appeals substantially in accordance with the briefs.

Q. Did you do any work in connection with what is known as the Golf Ball case? A. No, I did not.

Q. What services did Mr. Shaughnessy perform? A. He was retained by Mr. Auerbach for similar services.

Q. Similar services to those that he rendered in 1906? A. Yes, sir; advice and counsel.

Q. Was Mr. Betts retained? A. He was not to my knowledge.

Q. Anybody else in connection with your bill? A. No, sir.

Q. You say you did not render a bill? A. I believe not.

Q. And how much was your compensation in 1908? A. If I may refer ——

Q. Surely. A. I was paid by check November 13, $3,978.09.

Q. November 13, 1908? A. Yes, sir; and on June 6, 1909, which was part of the same bill, $568.30.

Q. Do you recall by whose checks you were paid? A. Mr. Daingerfield in that year.

Q. By the Jockey Club checks? A. Yes. I knew nothing about its distribution of accounts amongst the various racing associations.

By Assemblyman Foley:

Q. What was this ringer bill? A. That was a bill which I prepared for Mr. Belmont and the racing authorities prohibiting the fictitious entry of horses. I would like to say one word before we adjourn if you will permit. I want to say that my services were absolutely legal in connection with these bills; that I never suggested to any member of the Legislature as to how he should vote for or against them. I never performed any services as a lobbyist or as a legislative agent.

Chairman Merritt: Witnesses under subpoena for to-day will please report at the session to-morrow morning. The Committee stands adjourned until 10 o'clock to-morrow morning.

Adjourned to Thursday, December 8, 1910, at 10 A. M.

TWENTY-SEVENTH PUBLIC SESSION OF THE LEGISLATIVE INVESTIGATING COMMITTEE.

ALDERMANIC CHAMBER, CITY HALL.

NEW YORK, *December* 8, 1910—10 A. M.

Present—HON. EDWIN A. MERRITT, JR., *Chairman.*
HON. ROBERT F. WAGNER.
HON. FRANK L. YOUNG.
HON. VICTOR M. ALLEN.
HON. JAMES A. FOLEY.
HON. FREDERICK R. TOOMBS.

HON. M. LINN BRUCE, *Counsel.*
ISIDOR J. KRESEL, ESQ., } *Assistant Counsel.*
ALFRED HURRELL, ESQ., }

Chairman MERRITT: The Committee will be in order.

Judge BRUCE: Mr. Thornton.

AMASA THORNTON, called as a witness and sworn, testified as follows:

By Judge BRUCE:

Q. Where do you reside, Mr. Thornton? A. 1232 Pacific street, Brooklyn.

Q. What is your business? A. Attorney.

Q. How long have you been practicing your profession? A. Since 1884 — since 1878.

Q. Mr. Thornton, you made a request of me that you be permitted to make a statement upon the record, I want now to give

you an opportunity to make that statement? A. In the fall — late in the fall of 1906, in a conversation with some clergymen, with whom I talked and whom I met at times, the question came up about the conduct of racing at Aqueduct, at Aqueduct race track. The secretary of one of these gentlemen asked me to go to Aqueduct and see how the racing there was conducted. I went down to Aqueduct and I found about 2,500 women there perhaps, it may be more or less, and perhaps not so many; maybe 2,000; and about a thousand men. And I didn't like the way that the crowd acted, especially the women, when the racing was going on. And I came back and made that sort of report to the secretary of this clergyman. I had known Mr. Belmont, and I called on him and told him the condition of things, and how I came to go, and I thought that something ought to be done to prevent women from betting in that sort of way at the races, and he asked me what I thought could be done, and I said, if the messenger boys, I thought, were kept off the stand, from carrying bets to make for these women, that a great deal of the evil would be remedied. And once or twice afterwards I saw him. And one day Mr. Belmont told me the Jockey Club — at that conversation, to go back a moment, Mr. Belmont said it was the absolute desire of the Jockey Club to have racing conducted so that everything would be seemly, and the conduct of everybody on the race track, and especially on the grandstand, would be of the best. Subsequently, I saw Mr. Belmont, and he said that the Jockey Club had decided that they would take the messengers off the grandstand. In the year 1907 the messengers were kept off the stand. I do not undertake to say it was because of any conversation which I had with Mr. Belmont; don't assume that it was. It is the fact that in 1907 the messengers were kept off the stands. In the year 1908, one day I got a telephone message from Mr. Belmont's office asking me to come over there.

Q. Can you give us about the time? A. I cannot tell you; some time, I should presume, it was five or six weeks after the Legislature met.

Q. That is, early in the year 1908? A. Yes, early in the year 1908. And I went to Mr. Belmont's office, and Mr. Belmont talked to me about it. I told Mr. Belmont that I would see the

ministers I knew, and see how they felt about the race track bill; and I did that from time to time and made a report to Mr. Belmont, and told him the ministers were against the race track and were supporting the Governor, and I charged him $250; for which I had not done him much good. And when he come to pay me, I think it was in his office I wrote that letter, I said I didn't consider I was doing any business for the race track, and I would like to have my dealings with him entirely, and have his personal check. He declined to give it to me, and I remember he gave me a Westchester Racing Association check for $250, and I cashed it in his office and took the money and went out.

Q. Why was it you did not wish to take the check of the Racing Association? A. Well, I didn't consider myself retained by the Racing Association, and I didn't want to be — I considered my relations were with Mr. Belmont personally; I had never met, as I remembered, any members of the Jockey Club; and that was the reason why.

Q. In your efforts to ascertain the sentiment of these clergymen to whom you refer with reference to the anti-racing bills, then pending in the Legislature, what did you do? A. Why, I went and talked with them.

Q. Did you appear before associations of ministers, or was it a canvass among individual ministers? A. Yes, ministers I knew.

Q. You appeared before no association? A. No association.

Q. Did you write any articles for any religious magazines or papers with regard to the matter? A. No.

Q. Did you do anything other than call upon individual clergymen and ascertain their views in reference to the matter? A. No, I did not.

Q. How many clergymen do you think that you visited? A. Oh, I suppose eight or ten. It may have been more or less. I found every one of them in favor of the Governor's bill.

Q. They were New York clergymen? A. Yes, and some up-State clergymen.

Q. Is there anything else you wish to add to the record? A. No.

Judge Bruce: That is all. Mr. Sturgis?

FREDERICK K. STURGIS, previously sworn, recalled for further examination:

By Judge BRUCE:

Q. I received a note from you, Mr. Sturgis, since you testified the other day, saying you wished to make a correction in your testimony; I shall now give you an opportunity to make it? A. Yes, sir. I made a misstatement in regard to the identity of the two Wadsworths, into which statement I was misled by the statement made to me by Mr. Stanchfield. That is what I want to say.

Q. That is, when you stated that Judge Coyne had been recommended to you by Speaker Wadsworth you were in error, were you? A. I was in error. Mr. Stanchfield says he told me, Congressman Wadsworth. Possibly he did. I didn't so recall it.

Q. Then you had no personal knowledge of the fact that either Mr. Wadsworth, Sr., or Mr. Wadsworth, Jr., had recommended Judge Coyne? A. None whatsoever.

A. And your testimony was based simply on what you had been told recently? A. Yes.

Q. Mr. Belmont testified yesterday that the only recommendation which he had received from Mr. Wadsworth, Sr., with reference to Judge Coyne was contained in a letter which he received in 1905, when Judge Coyne — when he thought that some corporations with which he was connected thought he retained Judge Coyne as a trial lawyer ——

Chairman MERRITT: And did so retain him.

Q. And did so retain him. Is that the recommendation to which Mr. Stanchfield referred? A. I think it is.

Q. You don't know of any other? A. I know of no other.

Q. There is nothing further you wish to add to the record? A. Nothing, sir; I have read it.

Judge BRUCE: That is all. Mr. Evans?

JOHN J. EVANS, previously sworn, recalled for further examination:

By Mr. KRESEL:

Q. Mr. Evans, did you know of the disappearance of the ledger of the Mutual Bank in which the account of the Metropolitan

Turf Association was contained? A. Not until Mr. Kirkland testified on the stand. I was the most surprised man in the world.

Q. Did the Mutual Bank, or any of its officers, communicate with you, as an officer of the Metropolitan Turf Association, when the subpoena was served upon them to produce the account of the Metropolitan Turf Association? A. They did not. I had a talk with Mr. Kirkland here, and he never mentioned a word about it.

Q. And he didn't tell you about it? A. Never said a word about it. And the first I knew about it was when they testified on the stand. A very unfortunate circumstance, and, I might add, has absolutely no bearing on the case whatever.

Q. Now, at the last hearing, Mr. Evans, you told us that you had maintained two bank accounts? A. Yes, sir.

Q. In the name of the Metropolitan Turf Association? A. Yes, sir.

Q. One in the Mutual Bank and one in the Lincoln Trust Company? A. Yes, sir.

Q. You also told us that you had the check books, at least, the current check books of both of those accounts? A. Yes, sir.

Q. And you promised to produce those? A. Yes, sir.

Q. You have produced a check book on the Mutual Bank? A. Yes, sir.

Q. Which I show you, which opens with an entry under date of April 6, 1908? A. That is right.

Q. Where is the check book of the Lincoln Trust Company? A. Well, the only explanation I can give of that is, that when we moved from our club house in Twenty-sixth street to our present club house in Forty-fifth street, we had quite a number of check books of that description on probably a dozen or more different banks that had been used by members when settling their accounts there. Those were all brought up to Forty-fifth street, and I told the janitor I didn't like all that rubbish, to burn it up; I says, "It has been laying around here for years," and he took me at my word and burned it up; and when I came to look for the Lincoln Bank, that must have went with it.

Q. You can't find it? A. Can't find it.

Q. It has been burned up? A. Yes, that is to the best of my knowledge; to the best of my knowledge.

Q. When did you move from Twenty-sixth street to Forty-fifth street? A. Well, I think in May — in the middle of April, 1908, I think.

Q. April, 1908? A. I think that was it.

Q. Where is the pass book for the account of the Lincoln Trust Company? A. I have looked for that and can't find it.

Q. That has been destroyed? A. No, I don't know that it has been destroyed; I won't say that has been destroyed. I won't say that the other positively has been destroyed, because I don't know; I am assuming that.

Q. But you can't find it? A. I can't find it.

Q. Now, you have produced a pass book for your account with the Mutual Bank? A. Yes, sir.

Q. And is this it? (Hands book to witness.) A. That looks like it.

Q. No question about it, but that is the one you produce? A. That is the one I gave you.

Q. Well, is it? A. Yes.

Q. Now, make sure about it; let's have no doubt about it? A. I presume it is. There is no way I can tell, only by the name, and one thing and another; yes, that is it.

Mr. Kresel: I offer the book in evidence.

(Received and marked Exhibit 67.)

Q. Now, is this pass book, which is now marked Exhibit No. 67, the only pass book for your account in the Mutual Bank? A. Yes, sir.

Q. The last entry in this pass book, Mr. Evans, is under date of March 18, 1910, isn't it? A. Yes.

Q. You have made deposits subsequent to that date? A. Oh, yes.

Q. And not entered in this book? A. No.

Q. Why not? A. Because I mailed them to the bank.

Q. You mailed the deposits you had, you do that yourself? A. Yes, mail them down; when they come in, mail them down.

Q. This bank is at Thirty-third street and Broadway, and you are at Forty-fifth street? A. And we are at Forty-fifth street.

Q. Well, and you have pursued that practically since last March? A. Yes.

Q. All the deposits prior to that time have been entered in this book? A. That I could not say; I might have mailed them at different times, you know.

Q. Have you ever balanced this account; have you ever had this account balanced in the Mutual Bank? A. Oh, yes.

Q. Received your vouchers back? A. Oh, yes.

Q. You receive them every month, don't you? A. Every month.

Q. You receive vouchers on the first of November? A. Yes.

Q. The first of December? A. Yes.

Q. Of October? A. Yes.

Q. Have you those? A. Yes, I think so.

Q. September? A. Yes, I think so.

Q. Have you got them all for 1910? A. I think I have.

Q. Have you got them all for 1909? A. I think I have got the vouchers — I can tell by looking at this book. (Witness refers to book.) I think I have got the vouchers from November 1, 1909, to date; I think I have them.

Q. You think you have them? A. Yes, sir.

Q. Do you think you have those before that date? A. No, sir; I know I have not.

Q. What has become of those? A. Destroyed them.

Q. Why do you just fix November 1, 1909, as the date from which you have them? A. Because that is the time we held our last meeting.

Q. Last meeting of what? A. Of the association.

Q. And after that meeting you destroyed all previous vouchers? A. All previous vouchers, yes.

Q. So you have no vouchers for 1908? A. No.

Q. You have no books for 1908? A. No, sir.

Q. You have no check books for 1908, excepting the one now in your hand, which begins in April, 1908? A. That is all.

Q. How do you keep track of your correspondence? A. I don't have any correspondence.

Q. Never write any letters? A. The only correspondence I have is a member will send me a check for the dues, and I will leave it there, and Mr. Sullivan will take it.

Q. That is a very clear answer, but it does not answer my question. You don't write any letters at all; your association never writes any letters? A. The only letters I might write ——

Q. Not what you might do, Mr. Evans. Do you keep copies of any letters that you write? A. No, positively not.

Q. Well, do you keep the letters you receive? A. The only letters that I keep that I receive is anything in regard to death claims. That we keep. Anything other than that I don't. In fact, I don't get any. I get a lot of advertisements, that is about all I get.

Q. What month in the year are your dues payable? A. They are payable on the first of September.

Q. Of each year? A. Of each year; yes, sir.

Q. And they are paid annually, or semi-annually? A. Annually, when they are paid.

Q. And as for the assessments for the mortuary fund, are those levied when a death occurs? A. Yes, sir.

Q. Every time a death occurs? A. Yes.

Q. You send out a notice levying an assessment? A. I don't, Mr. Sullivan sends out that.

Q. Mr. Sullivan does? A. Yes.

Q. Then you collect the money and deposit it? A. The collections are sent to me, and Mr. Sullivan takes those collections and makes some record or memorandum of them, and returns them back to me.

Q. The checks come to you and you turn them over to Mr. Sullivan and he turns them back to you? A. Yes, sir.

Q. And when a death occurs you send out your notice for the assessment, and how long, about, does it take for the money to come in? A. Well, that is a question I could not answer.

Q. You could not answer that? A. I could not answer that.

Q. Do you keep the widow waiting until you have made the entire collection, or do you pay it out of your treasury fund? A. Pay it out of the treasury.

Q. You pay it immediately out of your treasury fund? A. We pay it if everything is all collected, and we understand every phase of the case, and there is no hitch, why, we will pay it in three months.

Q. How much do you pay a widow? A. Twenty-five dollars for every member in good standing.

Q. So that the widow has no way of telling how much she is to get until you count up your good standing members? A. That is the idea, exactly.

Q. Now, in 1908 you had about 200 members, did you? A. No — well, we had 200, but they wasn't all in good standing.

Q. Well, didn't you pay to the widow usually $5,000? A. No, I don't think there is one widow ever got $5,000.

Q. Not as much as that? A. No. Here is another thing ——

Q. No, let's confine ourselves to that. A. Well, that would help you in regard to the $5,000. When a man is elected in the association he must pass a medical examination, and to become a member to the mortuary fund. Now, we have members has failed to pass the doctor.

Q. Yes. A. And therefore wasn't members of the mortuary fund; and our organization is limited to 200 members so, therefore, a widow couldn't get $5,000.

Q. Your membership is never complete; you never have as many as 200 members? A. Yes, it has been complete, until the Hart-Agnew bill.

Q. You have never had as many as 200 members in good standing? A. Not in the mortuary fund.

Q. Physically sound? A. No, I don't think so. That is, not since that rule was passed; it was passed some years ago, in regard to the doctor. Previous to that, we had, but that is several years ago.

Q. Now, what prompted me to ask you whether you paid a widow $5,000 is this stub, numbered 1020, in your check book, under date of October 20, 1908: "Michael J. Ryan, attorney-at-law of the city of Philadelphia; account of John Duffy;" that is a death claim, isn't it? A. Yes.

Q. "$5,000, less $175?" A. Yes, sir.

Q. So that you started with an original payment of $5,000, and for some reason or other you deducted $175? A. There is five members — there is seven members not in good standing.

Q. That is the reason you deducted it? A. Yes.

Q. Then, there were 200 members? A. Oh, yes.

Q. That were physically sound? A. Yes.

Q. But there were seven of them not in good standing? A. I won't say they were physically sound.

Q. Well, 200 members that belonged to the mortuary fund? A. No, I won't admit that, because if there was she would get $5,000.

Q. You deducted, as I understand, $25 for every member that is not in good standing, whether he is a member of the mortuary fund or not, isn't that right? A. No; you are getting the cart before the horse. We pay $25 for 193 members. We paid $25 apiece for 193 members. That is all.

Q. Well, that doesn't answer my question. Am I correct in saying that you pay $25 to a widow for every member who is a member of the mortuary fund and in good standing? A. Right.

Q. He has to have both qualifications? A. Right.

Q. Now, then, on this case of Duffy, did you have 200 members at that time who were members of the mortuary fund? A. No.

Q. Well, you must have had, because you started with $5,000? A. Well, we did not have, because we did not pay it.

Q. Then why this $5,000? A. Well, the only way that I can explain that is that it is — well, a sort of rumor that a man who belongs to the association is insured for $5,000, and that is the easiest way, see, to show, that is all. There is nothing wrong about that at all, see, nothing wrong about it.

Q. Go on with your explanation. I did not say there was anything wrong. A. It is simply a mode or manner of doing business. It is $25 for every member who is a member of the mortuary fund in good standing.

Q. And in October, 1908, according to that voucher or stub, you had at least 193 members in good standing, is that correct? A. Yes, sir.

Q. Your membership list must have been larger, but the others were not in good standing? Is that the way we understand it now? A. The membership was larger, but there was only that number who were members of the gratuity fund.

Q. 193? A. 193.

Q. And there were seven additional ones that were members

of the gratuity fund, but they were not in good standing, is that right? A. No.

Q. That is not right? A. No. I do not know. There might be four of them that were members of the gratuity fund and not in good standing, and there might be three who were physically incapable of becoming members.

Q. At least you had 193 members in good standing in October, 1908? A. Right, yes.

Q. Have you lost many since? A. Yes; our membership is pretty well down.

Q. Well, how much less membership now? A. Well, I could not say offhand.

Q. About? A. Oh, I should judge between 150 and 160.

Q. Between 150 and 160? A. Between 150 and 160. I do not know. Mr. Sullivan would have those figures of the members in good standing. I do not know.

Q. You have not heard from Mr. Sullivan since you last testified? A. I have not.

Q. You do not know where in the South he is? A. No.

Q. You do not know how good his health is? A. No, I do not know.

Q. He has not sent back your records? A. He has not sent a word.

Q. Is not Mr. Sullivan down in Florida making book? A. Mr. Sullivan has not made book to my knowledge in twenty years.

Q. And he was in the club house performing his duties as secretary of your association up to about six weeks ago? A. Off and on. He comes there very, very seldom. Very seldom. This year ——

Q. (Interrupting.) He was there up to six weeks ago? A. The last time I saw him was six or seven weeks ago.

Q. Who keeps your check book? A. I keep the check book.

Q. Is that your handwriting in the check book? A. No. Some of it is.

Q. Well, most of it is? Is most of it? A. No.

Q. Most of it is whose handwriting? A. Most of it is a young man who was up to the club there.

Q. What is his name? A. His name is Holden.

Q. What is his first name? A. Harry.

Q. What is his business? A. He is in the race track business, I think.

Q. Has he an office? A. Well, I could not say now. I could not say whether he has an office.

Q. He is in your employ, isn't he? A. No, sir.

Q. Don't you pay him a salary? A. No, sir.

Q. Hasn't he drawn a salary? A. He has drawn a salary.

Q. Well, then, you pay him a salary, don't you? A. Yes, we did.

Q. And how much salary do you pay him? A. I think that — I do not pay him any salary.

Q. Well, does the association pay him? Don't let's quibble over words. A. The association does not pay him a penny.

Q. Didn't he draw a salary out of this very fund in the Mutual Bank? A. He drew that from the club.

Q. All right, now. The club pays him a salary, then? A. The club pays him a salary, yes, sir.

Q. All right. How much of a salary does the club pay him? A. I think the club pays him — I think it is either $900 or $1,000 a year.

Q. And he does work for you as treasurer? A. No. Oh, he only does work for me if I ask him to write out a check. He is a better penman than what I am, and my checks go all over, and, of course, naturally a person likes to have a check look nice, and that is the only reason.

Q. Now, what other work does he do for the $1,000 a year besides making checks look nice? A. He is manager of the club house.

Q. Well, what is he, steward? A. Well, I do not know what you would say.

Q. Manager? A. He is just a manager; has charge of things around the club house.

Q. And he spends his time around the club house? A. Yes. You will see him there any day.

Q. He makes his office there? That is his business? A. Well, I should judge yes. You might say that was.

Q. The real estate business does not keep him very busy, does it? A. Not at the present time.

Q. Doesn't he live at the club house? A. Well, I do not think he lives at the club house. He may stay there over night; we have rooms there, you know, a couple of rooms upstairs that if a member wants to stay or sleep over night he will do it.

Q. Did you see Mr. Holden yesterday? A. I did not. I was here all day and went right home.

Q. Did you see him day before yesterday? A. Day before yesterday I was talking with him.

Q. Will you ask him, please, to come here? A. I certainly will.

Q. I will tell you frankly I have tried to subpoena him, but have been unable to. A. That is very strange. I cannot understand that.

Q. Now we understand it, do we, Mr. Evans, that you will have Mr. Holden come here? A. I will certainly let you know before 1 o'clock.

Q. Will you have him come here at 2 o'clock? A. At 2 o'clock, yes.

Q. Mr. Edward Burke is the chairman of your association? A. Yes, sir.

Q. Have you seen him lately? A. I saw him about six or seven weeks ago when he left for Havana.

Q. Is he in Havana now? A. To the best of my knowledge; only what I see in the paper. The paper tells me he is in New York. I haven't seen or heard of him. I do not believe he is in New York. I believe he is in Havana.

Q. What is he doing in Havana now? A. It was in the papers what he was doing down there.

Q. Won't you tell? A. I do not know. Why would I tell? I do not know.

Q. Did he tell you what he was going to Havana for? A. No, he didn't tell me. He told me he was going there on business.

Q. On business? A. On business.

Q. You haven't heard from him in all that time? A. No.

Q. You have not communicated with him? A. No. I would not know where to find him.

Q. When do you expect him back? A. Well, that — he told me that he would be back around the first of the year. That is,

he thought he would be back before this, but he is a very uncertain man. He goes to Havana and then he is interested in Miami, and he stays down there. He is down there pretty much all winter.

Q. In his absence who has charge of club affairs? A. Why, there is nobody to have charge of anything. I have as much charge as anybody.

Q. Well, who does the work that Mr. Burke would do as chairman of the association while he is away? A. There is no work to do.

Q. Who takes his place? A. Nobody.

Q. I notice that some blank checks in this check book are signed by Mr. Burke before he left. He supplied you with blank checks? A. That is the only work he has got to do.

Q. Before he left, he supplied you with blank checks? A. With blanks; yes. I have to pay the rent, haven't I? There it is. I don't want to be put out.

Q. Now, you have charge of making the deposits in the bank, don't you? A. Yes.

Q. Assume, Mr. Evans, that your largest membership was 200 in the year 1908. It certainly wasn't more than that, was it? A. No; no.

Q. Your dues at $25 a year would be $5,000, wouldn't it? A. Yes, sir.

Q. That is the largest amount of dues that you could possibly collect in 1908, is that right? A. For 1908?

Q. For 1908? Are your members very largely in arrears? A. Well, I wish you had it.

Q. Won't you answer my question, please? A. I won't tell you how much the members owe in the association. That is a personal question that I will balk on.

Q. I am not asking you what they owe now, Mr. Evans. Before you balk, please understand what I am asking about. Were your members largely indebted for dues in 1908? A. Yes, sir.

Q. Now, how large would you fix that arrear? A. I do not want to answer.

Q. Was it as large as a thousand dollars, Mr. Evans? I am now talking only for dues, Mr. Evans. I am not talking about anything else. A. For both dues and assessments?

Q. Well, let's us confine ourselves to dues for the present, please. A. Yes.

Q. Were your members in arrears as much as one thousand dollars for dues prior to 1908, which they paid in 1908? A. That I do not know.

Q. Was it as large as $10,000? A. I know from Mr. Sullivan——

Q. (Interrupting.) No, what you know from Mr. Sullivan. Won't you just answer my question? Were the arrears for dues in 1908 as much as $10,000? A. I do not know.

Q. Was it as much as $50,000? A. I could not tell you, because I do not know.

Q. Won't you just listen to my question, please, and reflect before you answer? I am asking you now whether you know that the arrears for dues that were owing from your members in 1908 was as much as $50,000? A. Well, they was not $50,000.

Q. All right. Now, you see that much we can gain, and now let's split it in half. Was it as much as $25,000? A. For what?

Q. For dues. A. For dues and arrears? No, I do not think it was.

Q. Well, don't you know that it was not? A. For dues?

Q. Yes. A. Dues alone?

Q. Yes. A. Well, no, it could not be.

Q. Could not be? A. No; it could not be that.

Q. Well, was it as much as $10,000, Mr. Evans? A. Well, now, you are getting an answer that I don't want to give, see?

Q. Don't give me any answer you don't want to give. A. That is it. I——

Q. (Interrupting.) Was the arrears that your members owed for dues in 1908 as much as $10,000? A. I do not know.

Q. Now, don't you know, or don't you want to tell, Mr. Evans? A. I don't know positively, and I don't want to tell, in the second place.

Q. Well, now, that is—— A. (Interrupting.) Now there is the answer to both questions.

Q. In order that your members might be in arrears in the sum of $10,000 for dues, it would be necessary that the entire membership should have refused and failed to pay dues for two years, isn't that right? A. Very true.

Q. Now, did your membership refuse to pay dues for the years 1906 and 1907? A. No.

Q. Or fail to pay them? A. No. Some did.

Q. So that we can go so far, any way? A. Yes.

Q. Can't we? A. Yes.

Q. That the arrears, if there were any, were not as much as $10,000, is that right? A. Well, you can put it that way. Well, I will tell you, Mr. Kresel ——

Q. No, just answer my question. Isn't that right? A. That it was $10,000?

Q. Yes. A. It might be.

Q. I did not ask you what it might be. Wasn't it? Isn't that right that the arrears were not $10,000? A. How can I answer you? I do not know.

Q. I thought we had arrived at that. You told us that your members did pay dues for 1906 and 1907? A. Yes.

Q. Some of them? A. Yes.

Q. At least one of them did? A. Oh, yes.

Q. So that your arrears could not have been $10,000, isn't that right? A. For 1908?

Q. 1908. In dues for 1908? A. For 1907 and 1908.

Q. Yes. A. Oh, well, for those two years?

Q. Yes. A. You are speaking for those two years?

Q. Yes. A. No. That is right.

Q. Well, we have arrived at that much. You have by-laws? A. Yes.

Q. Printed? A. Some years ago.

Q. Are they printed? A. Yes.

Q. A copy is available? A. I think I can find you a copy.

Q. Will you find me a copy and bring it at 2 o'clock, please, if you can? A. If I can. If I can find a copy.

Q. Or, if you can't, at 2, to-morrow will do just as well. A. I will try and find it if I can.

Q. Your by-laws provide for disciplining members who do not pay their dues? A. Yes.

Q. And they provide that when a member is in arrears for a certain length of time he is to be suspended? A. Right.

Q. And what is that length of time? A. Well, I could just not recall offhand, but it is ——

Q. (Interrupting.) Well, is it as long as a year? A. Well, about a year. I think something like that. It is the usual time, you know.

Q. Well, the usual time is six months? A. It might be six months for all I know.

Q. It certainly is not over a year? A. No. I know that we never enforced it. I will tell you that right now.

Q. Did you ever collect as much as $5,000 in dues in one day? A. In dues?

Q. Yes. A. Dues alone?

Q. Yes. A. No.

Q. Did you ever collect as much as $5,000 in death assessments in one day? A. Death assessments and dues I might.

Q. No, death assessments alone? A. Well, I could not tell you that, Mr. Kresel. I tell you why.

Q. Since you have been treasurer. I am asking you for your own actions now. A. Well, I could not tell you that for this reason ——

Q. (Interrupting.) Wait a minute. Do not give me any reasons. Did you ever collect as much as $10,000 in one day for dues and assessments? A. No.

Q. You make your deposits as soon as you get them in? A. Yes.

Q. I notice on the 12th of May you deposited $20,000 in the Mutual Bank? A. Yes.

Q. What is that for? A. That was $20,000?

Q. Yes. May 12th, 1908, I am talking about? A. Let me look at that, I can tell you what that was.

Q. Yes. (Exhibiting the book to witness.) A. May 8th?

Q. Not May 8th; May 12th. A. That was $20,000 that I had in the Lincoln Trust Company that I transferred over to the Mutual Bank. That is a balance.

Q. Yes. And there is no question about that, Mr. Evans, is there? A. No.

Q. There is no think or might about this? A. No. It was $20,000.

Q. That is a fact? A. Yes. It was $20,000 I had there. That is, to the best of my recollection. You see you are going back now.

Q. Now, Mr. Evans, is it a fact, or isn't it a fact, that you took this $20,000 out of the Lincoln Trust Company and deposited it in the Mutual Bank? A. To the best of my knowledge and belief it is.

Q. I don't want your belief, sir, I want your knowledge. A. How do I know. I have nothing to show for it.

Q. That is what I am asking now. Do you know where that $20,000 came from, or don't you? A. To the best of my knowledge and belief I took it out of the Lincoln Trust Company and put it in the Mutual Bank.

Q. On the 12th of May, 1908? A. 1908.

Q. Why did you do that? Suppose you did it, why? A. Well, I did not like the way that they were running things at the Lincoln Trust Company.

Q. You did not like the way they ran things at the Lincoln Trust Company? A. Yes.

Q. Did you ever have as much as $20,000 in the Lincoln Trust Company? A. Oh, I had over $20,000.

Q. You have not communicated with the Lincoln Trust Company about this since you testified? A. I have not seen the Lincoln Trust Company in — well, I don't think since 1908 I have seen them; since we have moved uptown I do not think I have seen anybody there.

Q. I have a verified statement here from the Lincoln Trust Company of your drafts and your deposits. A. Yes.

Q. From January 1st, 1908? A. Yes.

Q. To January 30, 1909, which I show you, and there is no draft there of any $20,000? A. Well, then, I did not do it.

Q. I thought you would take it back. A. Well, I take it back, surely.

Q. Well, now, where did you get that $20,000? A. The only way ——

Q. (Interrupting.) No; not the only way; where did you get it? A. Let me think. I thought I had taken it out of the Lincoln Trust.

Q. Yes, I know you did. A. But this shows that I did not. Therefore, it must have come from some bonds that matured on the 1st of May.

Q. I did not ask you what it must have been. Do you know where you got this $20,000 from? A. That is the only place I could get it.

Q. I did not ask what is the only place? Do you know where you got this $20,000? A. Well, you ask me if I know, and I am trying to answer you the best I can.

Q. Do you know? If you do not know, you may say so. A. Well, I do not know.

Q. That was not an assessment of members, was it? A. I don't know.

Q. Now, Mr. Evans —— A. Where is the sense of it. I am trying to tell you the best I can.

Q. Now, Mr. Evans, I wish you would reflect before you make answers to these questions, because there are some facts that we do know? A. Yes.

Q. I don't want to mislead you? A. That is the only thing.

Q. I want to repeat my question; isn't it a fact that this $20,000 was the amount that was collected from an assessment levied by he association upon its members? A. Not that I know of.

Q. What? A. Not that I know of.

Q. Did you ever sell any bonds for your association since you have been treasurer? A. I think we did; I think we sold some bonds, yes, sir.

Q. What bonds were they that you sold? A. I think we sold fifteen B. & O. bonds.

Q. Fifteen B. & O. bonds? A. Yes, sir; I think we sold them.

Q. And when? A. I could not just tell you when, sir.

Q. A year ago? A. Oh, it was more than that.

Q. Five years ago? A. Yes, it was before 1908.

Q. Before 1908? A. I think so.

Q. Then I am not interested in it? A. I think so; I think it was before that; I don't know.

Q. Aren't you sure it was before 1908? A. I cannot tell.

Q. Why do you take it back; you just told me it was before 1908? A. I don't know.

Q. What? A. I say I don't know whether it was or not.

Q. Did you sell any since 1908? A. I cannot tell.

Q. What? A. I cannot tell, let me think; I cannot recall to save my life.

Q. Did you sell any bonds on more than one occasion as long as you have been treasurer? A. No, that is all.

Q. Only one sale of bonds, is that right? A. Yes, sir.

Q. And that was of Baltimore & Ohio? A. Yes.

Q. Is that right? A. Yes.

Q. Now, that much at least we are sure of? A. Yes.

Q. That your association, since you have been treasurer — you have been treasurer since 1908, haven't you? A. Yes.

Q. The beginning of 1908? A. Yes.

Q. You have sold only one lot of bonds? A. That is all.

Q. Now, I direct your attention to a deposit under date of February 3d, 1909, "To deposit $15,332.91," and in pencil you notice "Sale bonds," do you? A. Yes.

Q. Is that in your handwriting? A. No.

Q. Is that in Mr. Holden's handwriting? A. That is in Mr. Holden's handwriting.

Q. You have no doubt that is the proceeds of the sale of the bonds? A. No, that is all right.

Q. Then we come back to the $20,000; that can't be the proceeds of any bonds, can it? A. No.

Q. Now, what is it? A. I don't know.

Q. You don't know? A. No.

Q. Here is $20,000 suddenly appears; you deposited it in the Mutual Bank to the credit of your association, and you cannot tell us where that came from? A. I cannot tell you; I have no record of it.

Q. We are not so fortunate as to have $20,000 come in that way? A. Well, I wish you were.

Q. You cannot tell us where $20,000 came from, Mr. Evans; you don't want to go to the world as saying that? A. I am not going to tell what I don't know; I can't do that; I am not going to take any guess work.

Q. Now, it is not any guess work; isn't it a fact that that $20,000 was collected from the members of your association on an assessment levied? A. Not so far as I know.

Q. Not so far as you know? A. No.

Q. I want to read you some testimony of Mr. Orlando Jones; you know Mr. Orlando Jones? A. Yes, very well.

Q. He used to be a member of your executive committee, didn't he? A. Yes.

Q. And he is a member of your association now, isn't he? A. Yes.

Q. Mr. Jones testified as follows, I read from page 1503 of the minutes: "Q. Now, did the association from time to time levy assessments upon the members of the association for the various purposes and expenses of the association? A. Yes, sir.

"Q. Now, who had the power to levy those assessments? A. The body voted.

"Q. The body voted on each particular assessment? A. Yes, sir, a meeting was called and they voted.

"Q. Now, after they had voted for the levying of an assessment, how was that assessment levied and collected? A. The secretary collected it.

"Q. And notified each member, I presume, that an assessment had been made, and proceeded to collect it? A. They never notified the members, they just simply approached the member and stated the body had authorized so much to be collected, and he would simply ask for the amount and the member would give it to him.

"Q. And was the assessment usually paid by check or paid in cash, do you recall? A. Paid in cash."

Q. Now, is it true, Mr. Evans, that the association from time to time levied assessments upon the members for the various purposes and expenses of the association? A. Not so far as I know.

Q. You would know; you are a member of the executive committee? A. I would; I think I would.

Q. Don't you know that you would know if any such assessment had been levied; you personally did not pay any such assessment? A. I certainly did not.

Q. And you are a member of the association? A. Yes.

Q. So that this testimony of Mr. Orlando Jones is not true, is it? A. Not so far as I know.

Q. Well, it is not as far as your experience goes? A. As far as I know, it is not.

Q. You have never been approached by the secretary with an an-

nouncement that an assessment had been made and paid in cash? A. No, sir.

Q. You never paid any assessment, but an assessment to cover the expenses of the payment of an endowment to a widow? A. That is all.

Q. Ever since you have been a member of the association? A. Ever since I have been a member of the association.

Q. Now, Mr. Jones was questioned about the anti-racing bills pending in the Legislature of 1908, and he gave the following testimony: "Q. Was an assessment levied by the association for the purpose of raising funds in order to present the views of the association to the Legislature in relation to these bills?" And his answer was: "I think not."

"Q. Was any money contributed by members of the association, either as members or individually, to your knowledge, for the purpose of presenting the views of the association or any of its members to the Legislature in reference to these bills? A. No, sir.

"Q. Did you, directly or indirectly, by yourself or through your cashier, make any contribution to any fund whatsoever for the purpose of hiring attorneys or other persons to present the views of the association with reference to these bills? A. Well, that is a very broad question.

"Q. Yes, I intended to make it so. A. The executive committee has power to levy any assessments they wish to make." Is that true? A. We have the power.

Q. Yes. "Now, there were assessments levied for the lawyers," says Mr. Jones. "That I say indirectly. The lawyers were very much harassed during those times, and it was necessary to employ lawyers.

"Q. I thought so, Mr. Jones, and that is the reason I asked the question in that form. Now, will you kindly tell me all about it, the assessments levied, the amount raised — I am not insinuating that it was for illegitimate purposes, I take you at your word that it was for the purpose of hiring lawyers or other persons to present the views of the association. Will you kindly tell me what it was? A. The assessments raised varied according to the number of men that employed themselves at one time. If there were twenty men trying to make a living, the twenty were assessed, and it varied according to the number of men.

"Q. Now, tell me, Mr. Jones, frankly, or tell the Committee, rather, what was done in 1908? A. 1908?

"Q. Yes. A. With reference to what?

"Q. With reference to the anti-racing bills, for the purpose of hiring lawyers for the purpose of presenting the views of the association to the Legislature with reference to these bills. A. Well, I absolutely know nothing in reference to what was done. The executive committee has absolute power, whatever they get they do what they please with it. The members knew nothing." Is that true with regard to the activities of the executive committee, or is it a little too broad? A. Yes, the question is a little ——

Q. A little too broad? A. Yes, sir.

Q. "Q. That is undoubtedly true. I understand that, Mr. Jones, but what I want to know from you is how much you contributed towards these assessments? A. I can't tell you, I haven't the slightest idea.

"Q. Who would know, your cashier? A. Well, he should know. * * *

"Q. Mr. Keiser was your cashier in 1908? A. Yes, sir, I think he has been in my employ for several years, I think.

"Q. After you ceased to be treasurer what the amounts of the assessments were from time to time, you didn't know? A. No, sir, I could have known, but I did not bother myself.

"Q. That is, they were paid by your cashier? A. By my cashier." Now, is that testimony given by Mr. Jones with regard to the levying of assessments by the executive committee, the collection thereof by the secretary in cash, and that such an assessment was levied in 1908 for the purpose of hiring lawyers to present the views of your association to the Legislature in opposition to the anti-racing bills, true? A. Not to my knowledge.

Q. Now, while I was reading, Mr. Evans, you have no doubt been thinking of the $20,000 item; has your memory been refreshed, and can you tell us now where this $20,000 came from? A. It has not; I cannot for the life of me tell.

Q. And it was not an assessment? A. No.

Q. Well, perhaps you and I differ about the meaning of the word assessment; let us call it a collection, a contribution; was it a contribution by members to a fund? A. I think not.

Q. I am not saying that it was a contribution for any illegitimate purposes, Mr. Evans, and I do not mean to insinuate that it was, but here is an item of $20,000, you know to us poor people it is quite a large amount, Mr. Evans, and it does seem that you, as treasurer of this association, should be able to tell where you got that money from. Now, wasn't it a collection made from among the members? A. Not to my knowledge. Now, I will tell you, Mr. Kresel, I thought that it was from the Lincoln Bank; I thought it might have been some bonds, and now I cannot tell where it came from. Eventually I will find out, see; eventually I suppose I will find out about it, but I know this, as regards Mr. Orlando Jones' testimony in regard to his collections, I mean his assessments, as he calls them, and money that he contributed and all in regard to that, if he did do that I never handled one penny.

Q. I didn't ask you whether you handled it? A. I never handled one penny.

Q. I want to get back to the $20,000. You say you will find out where you got it from; how do you expect to find out? A. I don't know; by inquiry.

Q. Your records are gone? A. Yes.

Q. Whom do you expect to ask about it? A. I don't know. I will ask anybody and everybody that I think ——

Q. Whom would you ask to tell you where you got this $20,000? A. I cannot say.

Q. It wasn't the collection of dues, was it? A. It might have been an accumulation.

Q. $20,000 in accumulation in your hands of dues; why, it would take four years if every member paid you your dues for four years you would have had to keep that money in your possession before you would get $20,000? A. How about the assessment ——

Q. Isn't that right; I am speaking of dues now? A. Yes, quite right. How about assessments?

Q. Was it assessments? A. I don't know. The dues and assessments make a lot of money.

Q. How many deaths did you have just prior to May 12th, 1908? A. I cannot tell.

Q. Hadn't you paid them all up? A. Yes.

Q. So that this $20,000 was not for the payment of any death claims, was it? A. I don't know.

Q. Was it or wasn't it? A. I don't know. I pay the money before I get it ——

Q. You are going to try and find out where you got that $20,000, are you? A. If I can.

Q. Now, let me direct your attention to something here, and perhaps that will refresh it. You deposited this $20,000 on the 12th of May, didn't you? A. Yes, sir.

Q. Well, on the 13th of May, the very next day, you got a certificate of deposit from the Mutual Bank for $15,000, didn't you? A. Yes.

Q. And that came out of the $20,000, didn't it? A. Yes.

Q. Well, does that refresh your recollection as to where you got the $20,000? A. That is why I thought I got it out of the Lincoln.

Q. Does that refresh your recollection as to where you got the $20,000? A. No.

Q. Now, why did you take out a certificate of deposit? A. Because I knew I would have counsel fees to meet.

Q. Now, don't we get this, then, that $15,000 out of the $20,000 that you deposited you took out in the form of a certificate of deposit to pay counsel fees? A. To be prepared to pay them.

Q. To be prepared to pay counsel fees? A. Yes, sir.

Q. And that was counsel fees in connection with this anti-racing legislation? A. Oh, yes.

Q. Now, with that information before you, Mr. Evans, won't you tell now whether this $20,000 was raised from the members for the purpose of paying these counsel fees? A. I would say that if I knew it; I don't know it.

Q. Doesn't it look to you now, with the information that I have supplied to you, that you deposited this $20,000 on one day, that on the next day you withdrew $15,000 of it in a form of a certificate of deposit for the purpose of paying counsel fees in connection with this legislation; doesn't that information lead you to the conclusion, as it leads me, that it was a collection from the members for the purpose of paying these expenses? A. From your standpoint, but not from mine.

Q. It does not lead you to that conclusion? A. Not at all.

Q. And you cannot now tell us where you got it from? A. No, sir.

Q. Now, when did you pay these legal expenses? A. I think it was on the 16th of June.

Q. The 16th of June? A. I think that is it.

Q. Davies, Stone & Auerbach and Delancey Nicoll, $12,500? A. Yes, sir.

Q. Now, for the purpose of having the money in the bank to pay that you redeposited your certificate of deposit of $15,000? A. Yes, sir.

Q. That is, you held the certificate of deposit? A. Yes.

Q. For about a month? A. Yes.

Q. From the 13th of May to the 16th of June? A. Yes.

Q. You got interest on it, didn't you? A. At four per cent; that is why I did it.

Q. Did you get a bill from Davies, Stone & Auerbach? A. I don't think I did.

Q. Did you make the arrangement with them for these services for which you paid? A. Yes, sir.

Q. You, personally? A. I was there; yes, sir.

Q. Who else was there? A. I dont' know.

Q. Mr. Burke? A. I think Mr. Burke was there.

Q. Was that a retainer? A. That was a retainer to cover ——

Q. Was it a retainer or was it a payment of a bill? A. Well, it was not either one.

Q. It was not either one? A. No.

Q. Well, was it a payment for services performed or to be performed? A. To be performed.

Q. Non-performed? A. Non-performed.

Q. This was an advance payment of $12,500? A. Yes, sir.

Q. To these two lawyers for services that they were to perform? A. For those two firms.

Q. For those two firms? A. Yes, sir.

Q. And what services were they to perform? A. They were to take care of all the cases of members who had been arrested.

Q. Had been arrested, or were going to be arrested? A. To attend to all of our cases.

Q. Is that all? A. What?

Q. Is that all; is that your answer, that they were to attend to your cases? A. Yes, sir.

Q. Is that as definite as you can make it? A. As definite as I can make it.

Q. Had any of your members been arrested at the time when you paid this $12,500? A. I don't know; I think they had.

Q. Do you know who? A. No; I could not tell you.

Q. Hoy many of your members were arrested, really? A. Altogether?

Q. Yes. A. There must have been fifty, I guess.

Q. After the passage of this act? A. Yes.

Q. Are you sure about that? A. I am not sure about just the number; I know there was a large number.

Q. And they were to take care of all those cases, is that right? A. Yes, sir.

Q. That was the agreement, the bargain between you? A. Yes, sir.

Q. And did they? A. Yes, I guess they did.

Q. You know they did? A. Yes, sure, as far as I know.

Q. And was that to be a final and full payment or was that only on account? A. That was to be a final and full payment.

Q. No matter how many cases there would be? A. It did not make any difference.

Q. These two firms agreed with you that, no matter how many cases there should arise —— A. Yes, sir.

Q. No matter how long a time it would take —— A. That is right.

Q. They would do all this work for $12,500? A. That is the way I understood it.

Q. Whether it lasted ten or twenty years? A. Yes, that is the way I understood it.

Q. Whether your entire membership was arrested? A. That is the way I understood it.

Q. And you kept them to that agreement, didn't you? A. I did not pay them a cent since.

Q. And they have taken care of all your cases? A. Yes, sir.

Q. Was Mr. Orlando Jones' case one of them? A. Yes, sir.

Q. Did they take care of his case? A. Yes.

Q. Sure about it? A. Sure.

Q. You did not pay any other lawyer for Mr. Orlando Jones' case? A. I did.

Q. That is, the association did? A. The association paid a bill because Mr. Orlando Jones put it up to us.

Q. So Auerbach and Delancey Nicoll did not take care of all your cases, did they? A. Yes, they took care of all the cases, it would not be right to say that. The way Orlando Jones in the Vendig case came up was when they were arrested they immediately sent for their own lawyer, and then when we found out about it we said, "We have engaged lawyers to attend to you, so they said, "Well, all right," and as I understood it after it went through, I don't know what court, I suppose a police court or something like that, it was turned over to Mr. Auerbach, and the bill was rendered by Mr. McDermitt to Mr. Jones, and Mr. Jones put it up to us to pay the bill, and we did pay the bill.

Q. Why should you, as an association, pay the lawyer's fees for your members? A. I don't know why we should, but we always protect them.

Q. You always do that? A. Always do that.

Q. And you have had quite large lawyers' bills? A. Oh, yes.

Q. At times? A. Yes.

Q. Since the payment of this $12,500 to Davies, Stone & Auerbach you have not had any, have you? A. Well, yes; there is another item in there of $4,500.

Q. What was that for? A. That was given to Mr. Burke.

Q. He is not a lawyer? A. No, he is the president of the association.

Q. What was it for? A. He did not tell me.

Q. How do you know it was for legal services? A. He told me that was what he was going to use it for.

Q. What legal services? A. He did not render any account.

Q. Surely it was not to defend your members any more; they were taken care of? A. I don't know.

Q. They were taken care of, weren't they? A. So far as I know.

Q. By those two firms? A. So far as I know.

Q. What were the legal services? A. I told you I didn't know.

Q. You gave the money to Mr. Burke? A. Yes.

Q. In cash? A. In cash.

Q. You drew a check to your own order? A. Yes.

Q. And handed the money over to Mr. Burke? A. No; the way

I done it was this: Mr. Burke asked me, we were at the track, and we were talking about it ——

Q. Talking about what? A. Talking about the business, the way it was going on, and whatever transpired I don't remember now, and he says, "Now, John, I have got a bill for $4,500." I says, "Yes." He says, "A case of a lot of bills, little bills, that I have incurred," and he says, "I wish you would give me the money." I says, "All right; what will I charge it to, Ed.?" He says, "Legal services." He says, "It is for legal services." I says, "All right." He says, "I wish you would give me the cash." I says, "All right; when do you want it?" He says, "Now." "All right." I went and borrowed $4,500 from one of the men at the track; handed him the $2,500, and told one of the boys to go up to the club, give him my keys, I says, "Go to ny desk and get a check, tear a check out of the book and get Burke to sign it to-night and bring it down to me in the morning." I says, "I will meet you down at 34th street." So he says, "All right," and they brought me down the check. I filled the check out for $4,500, went and got it cashed and went and paid the money, paid the man back that I got it from.

Q. This was in October, 1908? A. Yes.

Q. There is no stub for this check; I mean, there is no numbered stub? A. Here it is. He tore it out of the back of the book.

Q. I am speaking now of the stub here? A. In rotation, no, there is no entry ——

Q. And in the addition on that page of the stub check book the addition was changed in order to take care of this $4,500, wasn't it? A. Yes, to put it in.

Q. You remember these facts pretty clearly? A. I remember that, because he tore it out of the back of the book.

Q. You remember about the meeting in 34th street? A. Yes.

Q. And about borrowing $4,500 in cash? A. Yes.

Q. And about telling a boy to go up and giving him a key to your locker? A. Yes.

Q. And he tearing out a check? A. Yes.

Q. And about it not being a check in rotation? A. Yes.

Q. All those facts are fresh in your recollection? A. Yes.

Q. But you cannot tell us where you got the $20,000? A. No.

Q. Now, in the month of May, 1908, you see, Mr. Evans, I have only this one check book to work with? A. Yes.

Q. I find that in the month of May, 1908, your deposits amounted to $24,875; see if I am not correct, will you? A. Yes.

Q. That is right, is it not? A. Yes.

Q. $24,875? A. Yes.

Q. Now, in the corresponding month of May, 1909, I find that your deposits amounted to only $3,900? A. Yes, sir.

Q. Let me show you, see if I am correct there; that is right, isn't it? A. Yes.

Q. Does that help you to recall where you got the $20,000 from? A. No; I cannot for the life of me think of it.

Q. Now, with whom of the firm of Davies, Stone & Auerbach did you make the arrangement for the payment of $12,500? A. Mr. Auerbach.

Q. Was Mr. Nicoll present? A. I don't remember.

Q. Was anybody of Mr. Nicoll's firm present? A. I could not say.

Q. Did you make that arrangement on the day when you made the payment or before that? A. The day previous, I think.

Q. The day before? A. I think it was the day before; that is my recollection.

Q. So that it was about the 15th of June? A. Something about that.

Q. Certainly not before the 1st of June, 1908? A. Oh, no.

Q. You have borrowed money from the Mutual Bank from time to time? A. Yes.

Q. How much would your loans run up to? A. According to what I would need, if anybody died——

Q. What was the largest loan that you can recall ever making at one time from the Mutual? A. I think $15,000.

Q. $15,000? A. Yes.

Q. That was in 1908, wasn't it? A. The book will tell that.

Q. What book? A. This one.

Q. Look at it and tell me? A. January 10th, 1910.

Q. You borrowed it? A. Borrowed it.

Q. Well, I am talking about loans before that? A. No; I don't remember.

Q. Did you ever borrow money before January, 1910? A. Not that I can recall.

Q. Didn't you borrow money in 1908? A. I don't think I did.

Q. Didn't you borrow as much at $25,000 in 1908? A. No.

Q. From the Mutual Bank? A. I don't think I did; did I?

Q. Can't I get something positive, Mr. Evans? Did you borrow as much as $25,000 from the Mutual Bank in 1908, and when I say you, I mean your association? A. Yes, I understand; not that I know of.

Q. Did you borrow any money in 1908? A. I could not tell. If you have any record from the Mutual Bank where I borowed money, I borrowed it, that is all. I will stand for any money that I borrowed, or anything else.

Q. You are not afraid of the loans, are you? A. Not afraid of the loans or afraid of anything else.

Q. In April, 1908, you had a certificate of deposit from the Mutual Bank, didn't you? A. Yes.

Q. That was before this $15,000 certificate that we are talking about you had another certificate of deposit, didn't you? A. I don't know.

Q. Well, look at your check book here, May 12th, "Interest on certificate of deposit $486.66?" A. Yes, sir.

Q. That would indicate, wouldn't it, that on the 12th of May, you had outstanding a certificate of deposit? A. It might have been the same thing.

Q. How could it be the same thing when you took out this certificate on the 13th of May? A. I might have had a certificate somewhere else.

Q. Some other bank? A. I don't know.

Q. You mean the Mutual Bank would be paying your interest on a certificate from some other bank? A. No; I might have deposited the interest in the Mutual Bank that I got from some other source.

Q. All right; I am not particular about the bank; what bank did you have a certificate of deposit from? A. I don't know; I don't know whether I had it or not.

Q. How much was the certificate of deposit? A. I don't know.

Q. Why did you have a certificate of deposit? A. Because I

had the money idle, I presume, and wanted to make the interest on it, wanted to make four per cent.

Q. You have interest entered of $486.66, can't you tell us how much that certificate of deposit was? A. No.

Q. Cannot? A. No, I cannot.

Q. What became of that certificate of deposit? A. I don't know.

Q. I think I asked you whether you ever had any deposits in any other banks but the Mutual and the Lincoln Trust? A. Yes, sir.

Q. And you tell me now, and you have told me, that you had not, is that right? A. Yes.

Q. What? A. No; I had no other banks.

Q. Now, let's get that positively. A. I don't think — not to the best of my recollection.

Q. Now, I am talking of only two years, 1908 and 1909? A. No; that is all. I didn't have any other banks.

Q. None, other than the two banks I have mentioned? A. That is all.

Q. The Mutual Bank, and the Lincoln Trust Company; is that right? A. Yes.

Q. No saving bank? A. No.

Q. No trust company? A. No; not that I know of.

Q. What? A. No; not that I know of.

Q. You would know. Now, let's not qualify it. I want this positively. You had no deposits for the Metropolitan Turf Association in any other bank but the Mutual Bank and the Lincoln Trust Company in the years 1908 and 1909, that is right, isn't it? A. That is the best of my knowledge and belief.

Q. Do you ever recall going to any bank where you did not have an account, and taking out from that bank a certificate of deposit? A. No.

Q. So that whatever certificates of deposit you had in 1908 and 1909 came from either the Mutual Bank or the Lincoln Trust Company, is that right? A. Yes.

Q. I find no record on the transcript of your account with the Lincoln Trust Company of either of the taking out of any such certificate of deposit, or of the surrender of it? (Hands paper to witness.) A. That don't state it is correct, does it?

Q. What? A. That doesn't say it is correct, does it?

Q. What doesn't say it is correct? A. This (witness holds up paper).

Q. Do you mean that this paper does not say that the paper is correct; is that what you mean? A. It don't say it is wrong, and I don't say it is right.

Q. It says "a true copy" there? A. I don't care what that says. They put it down in ink; and they lost the ledger, didn't they?

Q. I am talking about the Lincoln Trust Company? A. I am talking about a bank. They are not infallible.

Q. Wait a minute. Don't let's get into a row over nothing. The Mutual Bank is the one that lost the ledger? A. Very true.

Q. I am not talking about the Mutual Bank now, I am talking about the Lincoln Trust Company? A. Yes.

Q. Do you think the transcript itself is incorrect? A. No.

Q. It is a transcript of your account with the Lincoln Trust Company? A. Yes.

Q. Now, in view of the fact that they have no record, and don't show any record here of any certificate of deposit having been issued to you, or of any certificates of deposit having been surrendered by you, I ask you whether it isn't true that the certificate of deposit for which you got interest of $486 and 56 cents on the 12th of May, was issued to you by the Mutual Bank? A. What is that question again?

Mr. Kresel: The stenographer will repeat the question.

(The stenographer repeats the last preceding question as follows):

"Q. Now, in view of the fact that they have no record, and don't show any record here of any certificate of deposit having been issued to you, or of any certificates of deposit having been surrendered by you, I ask you whether it isn't true that the certificate of deposit for which you got interest of $486 and 56 cents on the 12th of May, was issued to you by the Mutual Bank?"

Q. Wouldn't that follow, Mr. Evans? A. I can't ——

Q. Can you assume that you get it from any other bank? A. I understand that is correct, but as far as the $20,000 ——

Q. I am not speaking about the $20,000 now. We are going to

give you time to think it over. I am now talking about the certificate of deposit, the amount of which I haven't yet had determined; I am asking you from what bank that was issued to you? A. I don't know.

Q. You don't know? A. No.

Q. I am asking you what the amount of it was? A. I don't know.

Q. I am asking you what became of it? A. It was used in the payment of death claims.

Q. Where is it? A. There is no record of it.

Q. Whenever you had a certificate of deposit, did you always re-deposit in the bank, and use it in that way? A. Well, unless I bought bonds.

Q. Unless you bought bonds? A. I may have bought bonds with it.

Q. Now, did you buy any bonds in 1908? A. I don't know.

Q. Did you buy any in 1909? A. In 1909, I didn't buy any.

Q. Did you buy any in 1910? A. 1910, no, no.

Q. Do you recall now, and will you swear that you ever as treasurer of this association boughts bonds for the association? A. I bought bonds; yes.

Q. You did buy? A. Yes.

Q. What bonds were they? A. Oh, I bought B. & O., Canada Southern; and I don't know whether I bought any other bonds or not.

Q. In 1908 you bought all those? A. I couldn't say when I bought them; I couldn't tell you the exact dates.

Q. From whom did you buy them? A. I don't know. I bought them from a broker. I could not tell you who the broker was.

Q. How much in bonds did you buy? A. Well, I bought 25 Canada 7's.

Q. Go on, any others? A. And I bought — I don't just remember how many B. & O's. I bought.

Q. And that certificate of deposit was used to buy these bonds? A. I don't know.

Q. You might have done it? A. Might have done it.

Q. I am not dealing in mights? A. No.

Q. Do you know what became of this certificate of deposit

for which you got the interest that I have called your attention to? A. Positively?

Q. Yes. A. No.

Q. Can you find out? A. I don't know.

Q. Will you try to find out? A. I will try to find out; that I will do; yes.

Q. What was this payment of $1,000 to Mr. H. L. Lee, given June 26, 1906? A. That was a disputed bet.

Q. What? A. A disputed bet.

Q. A disputed bet? A. Yes.

Q. I asked you before whether you had any loans from the Mutual Bank in 1908, and as I recall it, you said you could not recall? A. I could not recall.

Q. I direct your attention to stub No. 1015, by which you paid interest to the Mutual Bank? (Hands book to witness.) A. Yes.

Q. The amount of it being $62.80, does that refresh your recollection as to whether you had any loans at that time? A. If I paid interest I must have owed them something.

Q. How much was the loan? A. I could not tell you. But the fact that I paid them interest shows I must have had a loan.

Q. Stub No. 1031 shows that on February 5, 1909, you paid the Mutual Bank a loan of $7,500; how long had that been outstanding? A. I don't know.

Q. You borrowed it in 1908, didn't you? A. I don't know.

Q. You didn't borrow it in 1909, because you take no credit for it in your deposits here? A. Yes.

Q. That would indicate you borrowed it in 1908, wouldn't it? A. Well, whatever ——

Q. Wouldn't it? A. I don't know whether it was or was not; I am not sure.

Q. If you borrowed $7,500 from the Mutual Bank, as you did here, that would be entered on your stubs here as a deposit, wouldn't it? A. Yes.

Q. Now, is there any entry about that, since April, 1908? A I want to look at it.

Q. Well, look at it.

(Witness makes an examination of check book.)

A. That is what it is, sure as you are born.

Q. Now, before you say, "as sure as I am born," look at it again, please.

(Witness makes a lengthy examination of the check book.)

A. I know that was borrowed, if it was borrowed, to pay a death claim.

Q. But it was borrowed before April, 1908, wasn't it? A. Why, no.

Q. What? A. Here is a deposit of $15,333.

Q. That is for bonds, isn't it? A. Well?

Q. That is for bonds, isn't it? A. I don't know if it was for bonds or not; it may be.

Q. We have been over that. It is marked there "for bonds;" isn't it? A. Yes, bonds.

Q. Sale of bonds? A. Yes; I didn't see that. (Witness continues examination of check book.) It looks as if that was April, before April, from the looks of that book.

Q. And you have been having an account in the Mutual Bank, only since December, 1907? A. Yes.

Q. So that you borrowed this $7,500 between December, 1907, and April, 1908, anyway, didn't you? A. Well, according to——

Q. Didn't you according to the entries in your book? A. According to the entries in the book, I did.

Q. How much more did you borrow from the Mutual Bank in the year 1908? A. I could not say whether I did borrow or not.

Q. Is any officer of the Mutual Bank, as far as you know, a member of your association? A. No.

Q. Any connection whatever? A. No; no connection whatever; oh, no.

Q. Who is the president of the bank? A. I don't know his name.

Q. Who is the vice-president? A. I don't know. I was introduced to him, but the only man I know in the bank is Mr. Kirkland, the cashier.

Q. Mr. Kirkland, the cashier? A. Yes; I know the others by sight, but not by name.

Q. Now, Mr. Evans, I want to direct your attention to a long list of stubs here? (Exhibits stubs to witness.) A. Yes.

Q. Take stub 1067, for instance; there is a payment to the estate of Joseph F. Ullman, of $603.87, less $50? A. Yes, sir.

Q. Here is No. 1068, a payment to Coleman Ullman, of the same amount, $603.87, less $50? A. Yes.

Q. Now, these two checks, as the stubs show, were made to you, John J. Evans, treasurer, Joe Ullman, $50; Cole Ullman, $50 — $100? A. Yes.

Q. Which would indicate, would it not, that that was deducted from the payments to Joseph Ullman and Coleman Ullman, $50 in each case, was paid to you? A. The checks were made payable to me.

Q. The $50 then was made payable to you in a check then? A. Yes.

Q. Now, what was the idea; tell us all about it? A. I will tell you all about it, it is very simple.

Q. I thought it would be. A. Cole Ullman — Joe Ullman died, and Cole Ullman was the heir, and Cole Ullman took his *pro rata* share of what we had in the treasury, and withdrew from the association.

Q. Cole Ullman? A. Yes.

Q. Was he a member? A. Yes; and his brother Joe was a member, too; and he was the executor of the estate, and he got his *pro rata* share; and there, it goes on all through, the *pro rata* share we apportioned out as $603.87, as the *pro rata* share of what we have in the treasury.

Q. Joseph Ullman died? A. Yes.

Q. And you paid the widow a death claim? A. We paid his brother.

Q. Did you pay a death claim? A. We paid a death claim.

Q. That is aside and apart from this $603.87? A. Yes, sir.

Q. Do you mean to say that even after a member dies, that his estate continues to be entitled to a share of your property? A. Certainly; the same as the Stock Exchange, exactly; it is the same thing.

Q. You understand what I mean, don't you? A. I understand; yes.

Q. That the payment of the death claim does not wipe out the member's right to a share of your property? A. That is merely a gratuity fund, you understand.

Q. Now, what were those deductions of $50 in each case? A. What he owed in dues and assessments.

Q. Dues and assesments? A. Yes, sir.

Q. Was it dues or assessments? A. Both.

Q. You know that as a matter of fact? A. Yes.

Q. And can swear to it? A. Yes, and swear to it.

Q. That is distinct in your recollection? A. That is positive

Q. How much of that was dues, and how much was assessments? A. I don't know.

Q. But you are sure it was dues and assessments? A. Dues and assessments.

Q. And therefore, the money went to you, that right? A. Yes, sir.

Q. And you deposited it? A. I turned it over to Mr. Sullivan, and he turned it back to me, and I deposited it.

Q. Then you deposited it? A. Yes, sir.

Q. Now, you are sure it was dues and assessments? A. Yes, sir.

Q. These assessments you speak of weren't any other assessments but death assessments? A. That is all.

Q. You never levied any other assessments? A. No, no.

Q. Now, Mr. Ullman's case is not the only one of the payment of $603.87, is it? A. No; there are a lot of them there.

Q. There are twenty or thirty of them? A. I don't know; I don't think there is that many, is there?

Q. Well, I have been through your book; Moe Dinkelspiel? A. Right.

Q. Brinkman? A. Right.

Q. Jackson? A. Right.

Q. Gaines? A. Right.

Q. Doyle? A. Right.

Q. Lyons? A. Right.

Q. Wallbaum? A. Yes.

Q. Miller? A. Yes.

Q. Frank? A. Right.

Q. Blank? A. Yes.

Q. Steinhardt? A. Right.

Q. Murphy? A. Right.

Q. Kauffman? A. Right.

Q. Michaels? A. Right.

Q. Yaeger? A. Right.

Q. In each of these cases there was a deduction and payment to you? A. Yes.

Q. Did each of them owe dues and assessments? A. Every one of them.

Q. It just so happened that those members who withdrew and whom you paid out to, each an equal share of $603.87, owed dues and assessments, is that right? A. They only ——

Q. I mean every one of the members whose names I have mentioned, to whom you paid out a proportionate share of your property, owed you dues and assessments? A. Yes, sir.

Q. In some cases it was quite large wasn't it? A. Yes.

Q. In some cases as much as $250? A. Yes.

Q. Now, was that dues and assessments for death? A. Positively.

Q. And you got that money and turned it all back to the treasury? A. Back to the treasury fund.

Q. You have deposited all those funds? A. Yes, sir.

Q. You are sure about it? A. Yes, sir.

Q. How did you arrive at $603.87? A. Well, we took what we consider was the *pro rata* share of what we owned.

Q. Well, tell us how; tell us how you arrived at the $603.87? A. Well, now, I will tell you — here I am before an investigating committee giving out the entire financial condition of an association, that has $150,000 in the treasury. Now, I don't think that is fair; I don't think it is right. I don't think it is right that we should be called upon to do that, because that would be the value of this stock, of all the stock, the other stock — I don't think it is right to pin us down to that thing.

Q. I didn't ask you, Mr. Evans —— A. Now, one moment; let me show you ——

Q. Will you wait a minute until I finish my statement? A. Yes, sir.

Q. I didn't ask you to tell me what property you had; I didn't ask you to tell me where you had the property; I am simply trying to find out how you arrived at this proportionate sum of $603.87; if you will simply tell me how many members you had

at the time when you made the apportionment, I can arrive at my own figures without asking you? A. Two hundred.

Q. Did you have two hundred members right along? A. Yes, I say, right along.

Q. At the time you made this apportionment? A. We made the apportionment on a basis of two hundred.

Q. Now, Mr. Evans, isn't it true, and I wish you would think before you answer? A. Yes, sir.

Q. Isn't it true that the deductions that were made from the proportionate amount due to each of these men that withdrew from membership, and paid to you, has been kept by you in a fund which has been used in opposition to this Agnew-Hart legislation, and which was the amount of the assessment that was levied upon each member; and isn't it true that the reason it was deducted from the proportionate amount of the property of your association at this time, is because these men had not paid their assessments when the others had? A. Have you finished?

Q. Yes. A. Absolutely no; no connection whatever.

Q. And isn't it true that you now have in your possession, outside of the deposits in the Mutual Bank, a share of the money so collected by you? A. Absolutely no.

Q. Do you now swear, sir, that you deposited in the Mutual Bank every one of the amounts that were paid to you as deductions from the proportionate share of the property paid to these men? A. Yes, sir.

Q. Will you point out to me please, where are the deposits that you made of moneys collected by you, being the deductions from each of these amounts there (hands paper). Do you understand? A. Yes.

Q. Where are these deposits? A. They are in the book here.

Q. Show them? A. Why, they are lumped. Now, let me explain how the deposits are made. When I get these checks, Mr. Sullivan takes them and keeps them as much as two months before I get them back. I may get them back in two days, and I may not get them back in two months. Now, how am I going to find out an individual deposit?

Q. You can't show it? A. I can't do it. But I know every deposit is there. I know that every penny that comes out of that association, went into it.

Q. You mean, that you know that all of the moneys that were paid to you, being the amounts that you say were due from these men, were redeposited by you, is that right? A. I mean it went back into the association.

Q. Now, will you tell me, Mr. Evans, if Joe Ullman was entitled to $603.87, and he owed the association $50 in dues and assessments, what was the purpose of making two checks, one of $50 to you, and one of $553.87 to Ullman; why didn't they draw just one check of $553.87 to Ullman, and leave the $50 in the treasury where it belonged? A. Because, any dues and assessments that is collected must be turned over to Mr. Sullivan.

Q. Mr. Sullivan was the secretary, wasn't he? A. Yes, sir.

Q. He was an officer of your association? A. Right.

Q. You were the treasurer? A. Right.

Q. You and he worked together? A. Oh; or, no, no.

Q. I mean, for the benefit of your association? A. Oh, sure, surely, yes.

Q. And it was necessary to make these double checks? A. Yes.

Q. Part payable to the man and part payable to you in order that Mr. Sullivan might know that you did retain that amount? A. Yes, sir.

Q. You could not have given Sullivan a list of them? A. I always give him the checks.

Q. Now, you were asked, Mr. Evans, to produce a memorandum book that you said you had? A. Yes.

Q. That memorandum book you said contained a list of property that you said your association owned? A. Yes, sir.

Q. Now, I am not going to make it public because you asked me not to. A. Thank you.

Q. When did you make the entries in this book? A. I cannot say when I made it.

Q. You can't? A. I do not remember when I made it.

Q. This is a perfectly blank book? A. Blank book; yes.

Q. With the exception of five entries on one page? A. That is all.

Q. Made in your handwriting? A. Yes.

Q. Made at the same time, or some of the entries at one time and some at another? A. No; they are made at the same time.

Q. At the same time? A. Yes, at the same time.

Q. You have been treasurer how long? A. I have been treasurer about four years.

Q. And you made these entries about the time that you became treasurer? A. I did nothing of the kind.

Q. When did you make the entries? A. Oh, I made them about a month ago.

Q. A month ago? A. Something like that.

Q. Now that is the fact, isn't it? About a month ago you made these entries? A. I carried them in my head. I knew what they are.

Q. You do not want this Committee to believe that this book, a perfectly new book, that you have had this as treasurer for two years? A. No.

Q. You bought this book recently, didn't you? A. No, I found it in my desk.

Q. How did it get there? A. I do not know.

Q. Didn't you buy it recently? A. No. I found it in my desk.

Q. And you made the entries, all of which you had carried in your head? A. Yes, sir.

Q. There was absolutely no reason for making these entries, was there? A. None.

Q. Absolutely none? A. None.

Q. You did not make them since you testified here the last time? A. Oh, no, no, no.

Q. Now, I notice, Mr. Evans, that the bank says, according to this statement here, that you drew out more money than your check book shows? A. Yes, that is natural.

Q. That is natural? A. Yes.

Q. I find that under date of October 9, 1908, the bank charges you with a draft of $5,000, a withdrawal you notice, is that right? A. Yes.

Q. Now, will you show me a stub for a $5,000 check? A. When is that?

Q. October 9, 1908. A. I do not know.

Q. Why, you are looking at June, 1909, Mr. Evans. I know it. You are—October what?

Q. 1908. A. Does that check there in October, 1908, $4500 show?

Q. Yes, that is here. $4825. It is lumped in. A. Well, no, it could not be—

Q. (Interrupting) Perhaps it might not. I am simply asking you for information. A. I do not know.

Q. You do not find any stubs, then, for $5,000? A. No.

Q. Do you keep stubs of all your checks? A. Yes. Usually, you see—

Q. (Interrupting) Is that one of the cases where Mr. Burke asked you for a little cash? A. Well, that I do not know.

Q. Now, that we are about through, can you tell us where you got the $20,000? A. Not for the life of me, and if I could I would tell you that candidly.

Mr. KRESEL: Now, I am going to excuse you, Mr. Evans. I will let you know if I want you again.

By Judge BRUCE:

Q. Mr. Evans, just one question: Pause before answering to see if you fully understand it: Did you ever, at any time, either as an individual or otherwise, directly or indirectly, in cash or in any manner, contribute to any person or persons, any moneys to be used in any wise whatsoever in connection with any legislation pending with reference to race track matters? A. Absolutely no.

Q. Do you know of any person who ever made any such contribution whatsoever? A. I do not.

Q. Do you recall at any time of a person going about the track of any racing association and collecting moneys, in small or in large sums, from layers or players, as you termed them, for any purpose whatsoever, either with reference to legislation or anything else? A. Yes. They would collect for a jockey that was hurt or killed. For the jockey's family. Say a jockey was killed—and his family—they usually go around and raise a purse of four to five hundred dollars.

Q. Not more than that? A. No, no, no.

Q. Well, did you ever know of any funds being collected at any track in that manner, or in any other manner, from layers or players, as you term them, for any purpose whatsoever? A. No, I do not know of any; positively no.

Q. Is there to your knowledge any truth in the rumor which has reached me, that in the year 1907 or 1908 that a fund was

raised in this manner, or any other manner, at the tracks or elsewhere, by men interested in racing for the purpose of affecting legislation, either legitimately or illegitimately? Have you any knowledge of that whatsoever? A. Absolutely none; absolutely none.

Q. Now, I understand you, Mr. Evans, to swear positively? A. Positively.

Q. On this stand? A. On this stand.

Q. That neither you or any other person to your knowledge contributed to any fund in any manner whatsoever? A. No.

Q. To be used in any way whatsoever in connection with legislation, either legitimately or illegitimately? A. Positively. That I can swear positively to, and no question about it.

Q. There is no mental reservation? A. No; nothing at all about it; positive.

Q. You are not quibbling with me on the question of terms? A. No, nothing at all.

Q. You are not differentiating with reference to methods? A. No, no.

Q. You are making it as comprehensive as my question is? A. I certainly am.

Q. And I can absolutely rely upon that? A. You can.

Judge BRUCE: That is all. Is Mr. Gideon here?

(A voice:) The gentleman left the room about ten minutes ago or five minutes.

Judge BRUCE: Well, I wanted him. I told him he was to be the next witness. If any of you gentlemen that know him see him, I wish you would tell him that it is necessary that he should be here at 2 o'clock.

I do not like to say, Mr. Chairman, that the witness left in disobedience to the subpoena. I told him I would call him next, but without speaking to me he seems to have left.

CHARLES E. HENEY, called as a witness, being duly sworn, testified as follows:

By Judge BRUCE:

Q. Where do you reside, Mr. Heney? A. 438 Third street, Brooklyn.

Q. And what is your business? A. Art.

Q. And where is your place of business? A. 1247-1249 Fulton street, Brooklyn.

Q. That is, you deal in— A. Paintings, fine arts, yes, sir.

Q. And how long have you been engaged in that business? A. Well, I have been directly engaged in it going on two years, and indirectly a number of years.

Q. Have you any other business? A. No, sir.

Q. Are you connected with the Metropolitan Turf Association? A. I am a member of the executive committee.

Q. And how long have you been a member of that association? A. Since its inception.

Q. And that is how many years ago? A. Well, I think it is about twelve years, I think.

Q. What is the object and purpose of the Association? A. Well, the objects and purpose of the Association when it was formed was to protect the race-going public from welching.

Q. Protect them from welching? A. Yes, sir.

Q. I do not know that I fully understand your terms? A. Well, when it was formed, after the Ivins Pooling Bill was violated, the race track was overrun with so-called book-makers, irresponsible men, three-card-monte men, and every other kind of men that could get a slate and a pencil made book, and the public was being robbed. They would make a winning bet, and when they would try to collect it they would find the bookie had run away and the Metropolitan Turf Association was the outcome of that. 200 members formed.

Q. That was the primary purpose? A. That was its primary and only reason it was formed.

Q. And has it had any other function than that since? A. No, sir. Just to be a responsible organization that the public could feel assured to receive their money.

Q. Its membership was composed of men who attended at the tracks and made book, was it? A. Yes, sir, they were men. They had other interests besides. They were business men.

Q. Now, how long did you say you had been a member of the executive committee? A. I have been a member of the executive committee I guess for about 8 or 9 years.

Q. How is the business of the Association transacted? A. Well, it is very simple; there is not much business transacted in the organization. The principal business of the organization was the laying of odds until the Hart-Agnew bill, and we had meetings, annual meetings, once a year at which the governing committee was elected, treasurer, etc., and the duties of the governing committee were very simple. The chairman of the governing committee just acted as chairman and called the meetings, the annual meetings. We very rarely had more than one meeting a year. The executive committee would meet at divers times and pass upon the applications of members, reject undesirable citizens, etc., when they came up for membership.

Q. Now, were there stated meetings of the executive committee? A. No. They were rather special meetings. They were called, oh, perhaps, two or three times a year.

Q. And are the proceedings of the executive committee recorded? A. No, sir.

Q. You have no secretary? A. No, sir.

Q. When was the last meeting of the executive committee held? A. Oh, some time—I think the last meeting was held just prior to the annual meeting a year ago. Let's see. We have our meeting the first Tuesday after Election Day, a year ago, which is November just past.

Q. What authority and power has the executive committee under your constitution and by-laws? You have a constitution and by-laws? A. Yes, sir.

Q. What authority or power has it? A. Well, we have power to call special meetings and power to act upon the application for memberships, and to decide disputed wages between the members themselves and between the public and the members of the association.

Q. And this decision is binding upon the members, but I suppose not binding upon the public, is it? A. Exactly.

Q. Now, has the executive committee also power to levy assessments for any funds that the association needs for its purposes for which it is organized? A. No, sir, without a meeting of the organization as a body.

Q. But the organization, as a body, of course can authorize the levying of such assessments? A. Yes, sir; by the committee.

Q. Now, when such assessments are levied, who collects them? A. Well, the only assessments that have been levied are the assessments in connection with dues and death assessments, and Mr. Sullivan has always collected them.

Q. Since you were connected with the organization have you ever known any assessment to be levied other than for small death claims? A. I know positively there never has been such an assessment made.

Q. Has there ever been a collection of funds from the members, which you may not term an assessment, for any other purposes than those you have named? A. Absolutely none.

Q. Now, coming down to the race track legislation in 1908, what was the attitude of your organization toward the Anti-Race Track Bills? A. They hoped to see it defeated.

Q. Did they think it was wise or unwise legislation? A. They thought it was unwise.

Q. Did they endeavor to impress their views upon the members of the Legislature? A. No, sir.

Q. Or did they take any steps to present their views to the members of the Legislature? A. No, sir.

Q. Why not? A. Well, because they were an association that was directly interested, financially and otherwise, and being a book makers' organization, they thought perhaps that the wrong motive would be attributed to any move they made, and they just let the bills proceed on their merits as far as they were concerned.

Q. How did they arrive at this decision? A. Well, I do not know. They did not arrive at any particular conclusion. It was tacitly understood between all the members.

Q. Was the matter discussed by the Executive Committee? A. No, sir.

Q. Was it never brought up before the Executive Committee? A. No, sir.

Q. Wasn't the matter discussed by the association committee at any of its meetings? A. Not any meeting. It was a matter that was discussed every day and every night among the members individually.

Q. You mean at the track and at the Club House? A. At the track and at the Club House.

Q. And the reason that you did not present the views of your organization, which was deeply interested in the result of the legislation, to the members of the Legislature, was that being a book-makers' association, you thought your presentation of views would rather operate against your views than in favor of them? A. Well, we rather thought that. We were inspired that that would not have much effect, and might create an influence against the bills. We were not book-makers at that, Mr. Bruce. Book-making had passed away. They were simply layers of odds.

Q. Thank you for your correction. I did not make the distinction. That is, I did not have it in mind.

Q. Well, you know Mr. Orlando Jones? A. Yes.

Q. You know him very well? A. Yes.

Q. He was for many years a member of the association? A. Yes.

Q. And he was one of the large layers of odds, is that correct? A. Yes, sir.

Q. And he testified that, if I recall his testimony correctly, that some assessment was made and paid by his cashier. How much much it was he did not know. Do you recall whether or not you paid such an assessment? A. I do not, sir.

Q. Or any assessment? A. No. assessment.

Q. Or any contribution? A. No contribution whatever.

Q. Well, did you individually make any contribution towards any fund for the purpose of presenting the views of yourself or any other body to the members of the Legislature? A. I did not, sir.

Q. Did you make any contribution, directly or indirectly, to any fund for the purpose of influencing race-track legislation whatsoever? A. No, sir.

Q. Do you know of any person who, in any manner whatsoever, or at any time whatsoever, contributed, in any way whatsoever, to any fund whatsoever, in any amount whatsoever, for the purpose of influencing race-track legislation? A. No, sir.

Q. Directly or indirectly? A. Directly or indirectly.

Q. And your answer would be the same, no matter how broad I made the question? A. My answer would be the same.

Q. And your answer is made without any mental reservation whatsoever? A. Without any equivocation whatsoever.

Q. Or any mental reservation? A. Or any mental reservation.

Q. Your answer is not "No," because I have failed to use my proper term or describe any proper method? A. My answer is simply no, because there was no such assessment made in any manner, shape or form, to influence legislation of any kind, either for the Agnew-Hart bill, preceding it or since. There has been no assessment made in our association in any manner to influence any legislation whatever.

Q. I am not speaking now of contributions made, or assessments made, by your association. I am not talking now about association affairs at all. I am talking about any contribution made by you or any other layer or player, absolutely independent of the Metropolitan Turf Association? A. No, sir; absolutely no.

Q. And of that you are absolutely positive? A. Absolutely positive.

Q. And in making that answer you have no mental reservation? A. No mental reservation.

Q. And in making that answer you are not differentiating between terms or between methods? A. No, sir.

Q. In any wise or in any manner whatsoever, by yourself as an individual or no one else, was any such contribution ever made? A. No, sir.

Q. To your knowledge? A. No, sir; of my knowledge.

Judge Bruce: That is all.

Chairman Merritt: The Committee will stand adjourned until 1.30 P. M.

Recess until 1.30.

Afternoon Session.

2 p. m.

Chairman Merritt: The Committee will be in order.

Richard Thornton Wilson, Jr., called as a witness, being duly sworn, testified as follows:

By Mr. Kresel:

Q. Mr. Wilson, you are a banker? A. Yes.

Q. And your office is at 33 Wall street? A. Yes, sir.

Q. Are you the president of the Saratoga Racing Association? A. I am.

Q. How long have you been president of that association? A. Since a year ago last January.

Q. January, 1909? A. 1909.

Q. And before that time were you officially connected with the Saratoga Racing Association? A. I was never an officer before that time, no; I was a director.

Q. You were a director? A. A director, yes.

Q. And were you a member of the executive committee? A. I was.

Q. Before January, 1909? A. Yes, sir, I think I was.

Q. Do you recall for how long prior to that day you were a member of the executive committee? A. No, I could not; I think probably I have been a director since the new company was formed.

Q. And the new company was formed in 1901, I understand? A. I think that was the date; I would not be sure of that; I think that was the time when we bought the stock from the people that owned it previous to our purchase.

Q. Mr. Wilson, you are aware, of course, of the pendency in the Legislature of what afterwards became known as the Agnew-Hart bills in 1908? A. Yes.

Q. And I take it that your association was opposed to the passage of those bills? A. My association?

Q. Yes. A. Naturally it was opposed to them, yes; that is, just on general principles, I mean.

Q. And did your association take any steps to present its views against this legislation to the Legislature? A. Not directly.

Q. When you say not directly, just what do you mean, Mr. Wilson? A. Well, I mean that we did not have any bureau of publicity, or anything of that kind.

Q. Well, did your association combine with the other racing associations in opposing this legislation? A. I do not know whether they paid their part of the publicity bill or not. I presume that is what you wish to ask me. Am I answering you correctly?

Q. Yes, I think you are. You say that you do not know whether your association contributed towards the publicity ex-

pense? A. No. You see I was not president of the Association at that time.

Q. Yes, I understand. A. And I was not in New York during that entire winter.

Q. During the winter of 1908? A. Yes.

Q. Did your association contribute towards any of the expenses incurred by the associations in opposing this legislation? A. They contributed to the legal expenses.

Q. And when you say legal expenses, do you mean the fees of the lawyers? A. Yes.

Q. Do you know how much your association contributed to the legal expenses in 1908? A. No, I do not. I was not here, and I was not an officer in the association, and I was not consulted in any way about it.

Q. Well, it has appeared in evidence through the testimony of Mr. Earlocker, who is the assistant secretary, I understand, of your association, that the legal expenses that appear entered on the books of your association for the year 1907 were $2,185.11, while the legal expenses appearing on your books for the year 1908 were $18,544.14; and in 1909, your expenses were only $875. You notice of course the large increase in legal expenses between the years 1907 and 1908, an increase of some $16,000. Now, with that information, can you tell us what was the nature of the expenditure that made this large increase? A. I am very sorry to say that I cannot. As I told you I was not here during that winter at all. I was only in New York two days during that entire winter from back in November, until the middle of May.

Q. As president of the association do you have active charge of its affairs? A. Well, fairly active; that is, in regard to all the racing during the month of racing I take absolute charge of the running of the meetings.

Q. The running of the meeting? A. The running of the meeting; yes.

Q. You draw no salary? A. I draw no salary.

Q. Mr. Andrew Miller is the secretary and treasurer of the association? A. Yes; and the most active manager.

Q. The active manager of the association? A. Yes; practically.

Q. It appeared in evidence also yesterday through the testimony

of Mr. Earlocker that in September, 1908, there was paid by the association to Mr. Miller $25,000, which is entered in the books for services for years 1900 to 1908. Are you aware of that expenditure? A. From 1900 to 1909, you mean?

Q. Yes. A. Yes, to 1909, going back to the first of January.

Q. Yes, the first of January, 1909. What were the circumstances which led to that expenditure in September, 1908? A. Until when?

Q. Pardon me? A. Were those expenditures when, until January, 1909?

Q. Yes, the expenditure was made in September, 1908, I say. A. Yes. Well, it was this. Will you allow me to try to explain that whole thing?

Q. Certainly, Mr. Wilson? A. When Mr. Miller in the summer of 1900, I think it was, got an option on the stock of the old Saratoga Racing Association he then went around and placed this stock among the new holders of the stock, and that agreement for the purchase—we had an agreement that we should have all or none of the stock; in other words, we wished to form an entirely new body of stockholders. I do not wish to criticise the old stockholders, but still we wished to take it under new hands entirely. Mr. Miller did that. He got the option; he got the subscriptions, and he had this stock turned into the Guaranty Trust Company, and the payments made into the Guaranty Trust Company, and then the Guaranty Trust Company paid out to those stockholders because we wished to get all of the stock; he took charge of that entire purchase and sale himself, sometimes guaranteeing to the Trust Company, if someone was a little late in putting up their money or something of that kind, why, he would guarantee it so as to overcome anything of that kind. We had at that time very serious trouble in raising the money among the people that we wanted to be stockholders in this new track. After that went through Mr. William C. Whitney, the late Mr. William C. Whitney, was elected president, and Mr. Miller was elected secretary and treasurer, which position he has held ever since. Mr. Whitney at that time promised Mr. Miller $10,000 a year. That statement he made half a dozen times in my presence to Mr. Miller. Time dragged by and nothing was ever paid, and finally we wanted

to increase our stock from $325,000 to $500,000, and we offered that to the stockholders at par. Well, there again, we had great difficulty in getting the stockholders to subscribe, so we employed Mr. Miller, or he did it anyway, whether we employed him or not, to go around to the different stockholders individually, show them the statements of what the association had done in the two years since we had taken it over, and to try to put the association in a good light before its stockholders, but it looked as if we were not going to get a very good subscription from our stockholders, so Mr. Miller came to us, and said that if we could find some way of showing confidence to our stockholders that we thought the stock was good, that he thought then he could get almost all the stockholders to take their new stock at par. Of course it was a pretty high price to pay for racing stock; so Mr. William C. Whitney underwrote $50,000 of the new stock, and I underwrote $50,000 of it. After we had done that, Mr. Miller went around again; the result was that all the stock was taken except about $8,000, a little over $8,000; it left about $4,000 for me to take, and about $4,000 for Mr. Whitney. Then things went along as they always did. Mr. Miller kept asking us to pay him his salary. Then Mr. Whitney died, and nothing had ever been definitely stated as to what commission Mr. Miller was to get for placing this stock or anything, and nothing definitely done about his salary except the promise from Mr. Whitney. Almost every year Mr. Miller kept bringing this up before the executive committee, I won't say that he ever did it in a formal way, but he would go to each of us individually and say that he thought the time had come when we ought to pay him, and in 1897 we had quite a serious little break in the executive committee because Mr. Miller then demanded more firmly and more formally—this was in the autumn of either '96 or '97, I have forgotten which.

Q. You mean 1906, 1907? A. Yes, of course I mean 1906 or 1907. I thought that Mr. Miller should have $5,000 a year given to him, and most of the others thought that $2,500 a year was enough. They offered him $2,500 a year, and Mr. Miller refused it, refused to settle on that basis; he thought he was worth either more than that or he would not accept anything at all. Well, it was put off. We did not settle it. We had, as I say, quite a dis-

pute about it, and had some quite angry words in meetings of the executive committee. Then about a year and a half after that Mr. Miller, or the next January, he began again making his claims a little firmer all the time, so finally they said: Well, we had better settle this thing up some way; Mr. Miller has a claim on us according to what the late Mr. Whitney had promised of $10,000 a year, which had run up some eight years or something all that time, and also his claim for the reorganization of the company, the work he had done then, and everything of that kind; so we finally compromised with Mr. Miller for this $25,000. I see you have that down there according to newspaper testimony yesterday that we voted him $23,000, and $2,000. We did not do anything of the kind. We compromised with him for a full compromise for all back salaries, for the work that he had done in reorganizing the company and for his salary until the first of next January for a lump sum of $25,000, with the understanding that we should go on and pay him $5,000 a year hereafter. I mean as long as he remained in that position, which salary he has been drawing since that time.

Q. As far as the $23,000 and the $2,000 is concerned, I don't know what you read in the newspapers, but your books show that the payment of $25,000 was made in two payments, one of $23,000 and one of $2,000? A. Yes.

Q. And I have here the two checks? A. Well, I think I can explain that to you probably.

Q. Which were given, you notice? A. Yes; we did not have enough money in one bank to pay the whole $25,000, that was all, and, I think, unless I am mistaken, I would not like to give this as sworn testimony, but I think we had to borrow about $20,000 of that, because we had a surplus, but it was invested in bonds; we did not have that full amount of actual cash in the bank, so I think we borrowed some of that, and then later sold bonds to pay the loan; that is just memory.

Q. In other words, at the time that this payment of $25,000 was made to Mr. Miller the Saratoga Racing Association had to borrow the money to make the payment? A. Well, I have that just as a sort of a memory, don't you know; I would not swear that was so.

Q. It appeared from Mr. Earlocker's testimony yesterday that bonds were sold? A. Yes.

Q. Shortly prior to this payment of $25,000? A. Yes.

Q. Out of which the $25,000 was paid? A. Yes, part of it; and you must remember we had our summer meeting then, and our summer meeting was run at a loss.

Q. In 1908? A. Yes.

Q. After the passage of these anti-racing bills? A. Yes.

Q. And that is just what led us to inquire about this payment of $25,000. Here is an obligation, according to the testimony, that had been standing for eight years? A. Yes, sir.

Q. Your association found itself losing money, and had just run a meeting at which it had lost money, and this payment was made, and in order to make it you even had to sell some securities that day, and so it suggested itself an inquiry about this payment of $25,000. The explanation which you have given is the explanation that you want to give? A. I would like to say further than that, that Mr. Miller needed the money. Mr. Miller is a man of not any great means at all.

Q. Of course I take it Mr. Miller needed the money right along? A. He is getting it right along.

Q. I say, during the eight years that he was claiming the money he needed the money? A. I don't know about that. I think that just at that particular time he needed it more than he had.

Q. Now, while Mr. Miller was conducting negotiations for the organization of this new corporation and was attempting to get subscriptions for the stock, was he a stockholder himself? A. Yes.

Q. Without inquiring as to the amount of stock that he held, was he quite a large stockholder? A. Well, he was not a very great stockholder, no.

Q. What? A. Not a very large stockholder.

Q. To the extent that he was a stockholder of course he was interested in the success of the issue of the new stock? A. Certainly.

Q. And he was at that time also an officer of the corporation? A. He was secretary and treasurer.

Q. And a director? A. Yes, of course a director.

Q. Now, Mr. Wilson, before you leave the stand, is there anything, any statement that you want to make concerning the actions

of your association in connection with the Agnew-Hart bills when they were pending before the Legislature? A. Well, as I say, I was not an officer of my association at that time, and I was not in New York, but I can say this, that I am absolutely confident that my association had nothing whatever to do in any way with any act or knowingly with making any subscription for any purpose except for proper purposes. The people in my association are not people who would have done such a thing, and the gentleman who was president of it at that time I am sure is a gentleman who would not stoop to any methods.

Q. Who preceded you as president? A. Mr. F. R. Hitchcock.

Q. The fact is, is it not, Mr. Wilson, that the payments that were made by your association on account of legal expenses were made at the request, if not at the demand, of the Jockey Club, which had charge of apportioning the legal expenses among the various racing associations? A. I cannot swear to that; I was not here; that all took place in my absence.

Judge BRUCE: We will now take up, Mr. Chairman, fire insurance.

LINCOLN R. WELCH, called and sworn as a witness, testified as follows:

Direct-examination by Judge Bruce:

Q. Where do you reside, Mr. Welch? A. Fitchburg, Mass.

Q. What is your business? A. Fire insurance; I am president of the Fitchburg Mutual Fire Insurance Company.

Q. How long have you been engaged in the fire insurance business? A. 27 years.

Q. Will you give us your experience generally; the companies you have been connected with, and in what capacity? A. I was fourteen years with the Traders & Mechanics' Insurance Company of Lowell, Massachusetts, a mutual company, seven years in the office and seven years on the road as special agent; thirteen years ago I was elected secretary of the Fitchburg Mutual Fire Insurance Company, at Fitchburg, Mass., and was secretary until last August, when I was promoted to the position of president and treasurer.

Q. Does your company operate in any other State than Massachusetts? A. Yes.

Q. Give us the other States it is licensed to do business in? A. New Hampshire, Vermont, Rhode Island, Connecticut, Wisconsin, Indiana, Tennessee and Georgia.

Q. The mutual companies in Massachusetts are organized into a union known as the Mutual Union? A. Yes, sir; the Massachusetts Union, Fire Insurance Union.

Q. This union does not include in its membership what is known as factory mutuals, does it? A. No, sir; not at all.

Q. It is separate and apart from them? A. Exactly; entirely.

Q. Will you, for the benefit of the Committee, tell us what the Mutual Union is, how is it organized, what it does, and how it does it? A. It was organized over thirty years ago for the purpose of getting better practices in mutual insurance; that is, getting mutual forms, concurrent forms, and exchanging experiences on the different classes, and different ways and classes of conducting the business. Some of the mutuals have always confined their business to one class: others had branched out and wrote a varied number of classes. In order to get together and improve their position they organized this organization.

Q. In what year? A. In 1879.

Q. How many members has it now? A. It has 24 companies.

Q. How many had it at the time of its organization? A. Practically the same number. There may be one or two different.

Q. How many mutual companies are there doing business in Massachusetts outside of the factory mutuals? A. There are about 30 to 35.

Q. Then, this composes the vast majority of the mutual companies? A. Yes, sir.

Q. Tell us, first, in order to get some history as to the membership of this union, something of the organization of mutual companies of Massachusetts? A. Mutual companies have been organized for a great many years. The oldest company that we have was organized in 1823; the next one in 1825; two in 1826; two in 1828; two in 1830; 1842, '43, '47, '48, and two or three in the '50s, and the youngest one we have got was organized in 1861.

Q. Now, from that, will you continue and answer my question? A. There have been some other mutuals organized in the meantime, some organized during the time mentioned, of these, who have

gone out of business. There were several that went out of business at the time of the big Boston fire in 1872. In 1891 there were several mutuals organized in Massachusetts for the purpose of writing surplus lines throughout the country. They did not confine themselves to what we call legitimate mutual fire insurance. They had a short and very unpleasant career, and hurt mutual insurance considerably. They were written, more especially in that, — they were in the business of writing, as I said before, special hazards and surplus lines, and paying to agents a large commission, of 25 per cent, and they paid all the rest of the expenses.

Q. These companies were organized solely for writing surplus insurance? A. Yes, sir.

Q. And not for doing a general insurance business? A. Not for doing a legitimate insurance business. I have some copies of this, Mr. Bruce (witness produces pamphlet), which I shall be pleased to have you distribute around, which gives considerable information about mutual companies.

Judge Bruce: I offer it in evidence.

(Pamphlet received and marked Exhibit B-1. This Exhibit will be found in the volume of Exhibits.)

Q. Now, will you continue in regard to the organization? A. May I say, in regard to this (witness indicates pamphlet in evidence) that with the exception of the figures of my own State, Massachusetts, I would not say that every one is absolutely correct down to the cent; but the information was the best I was able to get; the best available information from the best reports, from what is supposed to be the best reporting office in the country, as far as we know.

Q. These are the best statistics you have been able to collect regarding the mutual companies doing business in the various States? A. Yes, sir; and take in only the companies that had gross assets of better than a hundred thousand dollars, with the exception of two or three that belong to our own organization, which are smaller, but that we consider very good in proportion to their size.

Q. Take, for instance, the second column there, on the first page, giving amount of risk; amount of risk at what time? A. Last January, December 31st. Last January, by the sworn statements in the Massachusetts Insurance Department, that is the amount at risk, in force, on that day.

Q. Do you know whether or not all the companies mentioned here are doing business in your State or not? A. No, only those on the first page.

Q. Only these on the first page? A. Yes, sir. I think it tells in most every case. In New Hampshire, you will see where those two companies on the second page, on the top, are licensed, one in New Hampshire, one in Vermont, and one in Vermont and Maine, and so on down.

Q. Now, will you continue, in answer to my first question, in regard to the organization of the Mutual Union, what it does and how it does it; having spoken now of its membership? A. If I may be permitted, I would like to read this, which I would be glad to submit in evidence, which carries out that.

Q. You may read that as the answer to my question? A. Yes, sir. Of the 24 companies belonging to the Massachusetts Mutual Fire Insurance Union, there are seventeen that have over one hundred thousand dollars gross assets, five of these seventeen have assets of between $100,000 and $200,000, and five between $200,000 and $300,000, one of $400,000, and six of $500,000 or better, as you will note by the schedule herewith.

By gross assets is meant the total cash available for the payment of losses and include the unearned premium, and each of the above companies have contingent assets equal to the premiums in force. For instance, my own company, the Fitchburg Mutual, has by its last annual statement, amount at risk, $23,662,567; gross assets, $238,714.40; unearned premium, $159,224.29; contingent assets, $329,481.87.

Of the companies of less than $100,000, there are two between $95,000 and $100,000, and they will undoubtedly reach $100,000 by the end of the year. Of the companies of $100,000 or more, one, you will note, has always confined its business to one county; of the others mentioned, there are probably nine or ten who may enter the State of New York in the near future, provided the change in the law was made on the basis of the present Massachusetts law, of which I will speak further. Undoubtedly, four or five would enter at an early date. Of the other liability noted, in some cases there is a borrowed money account, which condition was brought about by the directors wisely preferring to borrow rather than sell

any securities at a sacrifice during the hard times after the Chelsea conflagration. Of the three companies who do not belong to the union, one, the Mutual Fire, writes only dwellings, and returns to its policyholders 90 per cent of the premium charged, has no agents, and its business is practically confined to the city of Springfield, and its immediate vicinity. The Lumber Mutual would undoubtedly enter the State, and the other, the India Mutual, I am not familiar enough with its management to give particulars of at this time.

Possibly a word as to the management of our mutuals would not be amiss at this time. All are purely mutuals except one, and that company has a capital stock of $100,000, as you will see by reference to the schedule. All of our companies charge a premium equal to or exceeding the stock premium, and render at expiration of policy a partial return of said premium, which has been commonly called a dividend. All of our companies have paid dividends, so called, and no assessment has been levied by them since the time of the Boston fire in 1872, when two of above-named companies made an assessment, and a third made an assessment and has since gone out of business.

The average dividends now paid by the companies are 20 per cent on one-year policies, 40 per cent on three-year policies, and 60 per cent on five-year policies; some, however, pay higher on the three-year and five-year policies, and others pay a little less on the same term policies, and please remember that these dividends are payable in cash, whether the policy is renewed or not, and the dividend is always payable, never expires by limitation. We have paid within the last three years, we have paid dividends that have been unpaid, one, ten, and the other between eleven and twelve years.

Chairman MERRITT: Was there some litigation about them?

A. (Continuing.) No, simply they had forgotten them, and it happened to turn up, probably in the adjustment of an estate, the policy was found and they looked down to see if the dividend had been paid, and they asked us if it had been paid, and we found it had not been paid, and we paid it. We could take advantage of the law of exemption, at the expiration of six years. But we never do that with our policyholders. We believe the money belongs to them.

I would like to call your attention to the following extract rela-

tive to the loss-paying power of stock and mutual companies, contained in the 1887 report of the Hon. John K. Tarbox, who was Insurance Commissioner in Massachusetts at that time:

"A reecnt publication by a distinguished underwriter, the president of a prominent stock company, discussing the relative merits of the stock and mutual plans of insurance, says:—

"'Behind the mutuality of the purely mutual company there is nothing in the way of security except the obligations of the policyholders themselves. Behind the mutuality of the stock companies, that is, the amount of premiums paid each year, is the amount of stock paid in and invested as a guarantee fund for the payment of losses which exceed the premiums. While, as a usual thing, the success of a company rests mainly on the amount of its business in premiums, and the small percentage of its losses and expenses, yet the capital behind this is really what makes the difference between a stock and mutual company, and that to which the property owner should look in looking for insurance. In conflagrations such as those of Portland, Maine, in 1866, Chicago in 1871 and Boston in 1872, while there were many stock companies totally used up, yet those who held policies in mutual companies, as many did in Boston and Portland, upon the property consumed, fared very much worse than the average of those who held policies in stock companies.'

"This statement, so wide and reckless of the fact, must be challenged, in justice to the system unfairly assailed and in the defense of history it falsifies."

Twenty-two, all but six, and those small ones, with a single exception, of the Massachusetts stock fire companies were bankrupted by the Boston fire of 1872. With two exceptions, these two companies each had an unimpaired capital and a liberal surplus when the great conflagration came. Yet they were able to pay less than fifty per cent of their insurance losses. Four mutuals were forced into liquidation by the Boston fire. Three paid their losses and all debts in full. The other paid 85 per cent of its losses and debts. Several other mutuals suffered losses that greatly exceeded their cash fund, and would have bankrupted stock companies of equal size; but they each met their obligations from drafts upon their contingent liability funds, continued in business, and are strong and excellent institu-

tions to-day. Notable of these are the Quincy Mutual and the Merchants and Farmers' of Worcester.

A comparison of the four mutuals which went into liquidation, with the four largest and strongest of the bankrupt stock companies, will make the demonstration clear.

Mutuals.	From cash assets.	From assessments.	Paid losses.
Mechanics'.	$675,000	$870,000	In full
Massachusetts.	536,000	827,000	In full
Union.	334,163	623,152	85 per cent
Boot & Shoe.	19,319	58,965	In full

Stock companies.	Capital.	Surplus.	Paid losses.
Manufacturers'.	$400,000	$611,261	77 65-100%
Firemen's Fire	300,000	599,522	41 2-10%
Washington.	300,000	477,990	83 1-3%
Boylston.	300,000	432,124	47 4-10%

Mutual companies and stock companies each have funds, derived from premiums paid by their policyholders for the performance of their contracts to pay losses. Behind this fund, for the further protection of the assured, stands, in stock companies, a specific cash capital, and in mutual companies, a mutual obligation of the members for proportionate contributions, liable for losses, when the premium fund shall prove insufficient. The losers by the Boston fire found the mutual obligation of the mutuals more efficient than the cash capital of the stock companies for their protection.

Since the Boston fire, a period of fourteen years, which covers all the ordinary vicissitudes that the business of insurance is exposed to, each and every one of the well-established mutual fire companies in general business has found its normal cash premium income equal to its losses and expenses, with a margin, and generally a liberal one, to spare. No one of them has been compelled to resort to its contingent funds to meet its obligations. And to-day, as any time in that interval, their proportionate ability to discharge the responsibilities of an unusual crisis, is fully equal to that of sound stock companies.

Whatever individual disasters, and they are numerous and

disgraceful, have attended the practical establishment of the mutual fire insurance in Massachusetts, they are clearly referable to causes that do not impeach the ability or merits of the system, under capable and upright administration, defended by well-considered laws.

What is true of the above remarks from the time of the Boston fire in 1872 is also true of the period from 1887 to the present time.

Our mutual companies have, as a whole, confined themselves to the ordinary lines, such as dwellings, mercantile buildings, schoolhouses and the better grade of mercantile stocks, and in the last few years the less hazardous manufacturing classes.

We have tried, by emulating the example of our big brothers, the factory mutuals, through inspection and co-operation, to give our policyholders insurance at cost, charging a flat premium, in the same manner as the stock companies, dividing our profits among our policyholders, who are our stockholders, and we believe we have been fairly successful.

The mutuals in our organization have paid since organization for gross losses, $22,065,850, and for gross dividends $25,897,063; and this does not include the factory mutuals and some six or eight others in the State, and three Rhode Island companies admitted to Massachusetts.

According to the reports of the mutual companies, which are, I am sorry to say, incomplete, although the figures submitted are practically correct, Massachusetts is the banner State for insurance. Ohio stands second, and the rest of the States reported have from one to four or five mutual companies each.

I have in no case quoted a company of less than a hundred thousand dollars, except companies in our union, unless in all probability it would have by the end of this year the required amount or more. Most of the companies in the other States are excellent companies. I am not, however, familiar enough with their laws or methods of doing business to know if they would care to branch out in other States. In some cases I am well enough acquainted to know that there are one, and possibly two or three, in Ohio, one in Iowa, one in Michigan, and two in Pennsylvania, that would be glad to enter the State of New York, and undoubtedly there are others who would be glad to take admission if the conditions were not too onerous. I

have prepared, on another sheet, some statistics relative to the above companies.

Of course, we think Massachusetts laws relative to admission of foreign mutuals to our commonwealth is an excellent one; it is on a sliding scale, as follows: A mutual company can be admitted in the State of Massachusetts with the following conditions: Net cash assets equal to capital required of like company on the stock plan, that is, a surplus of $200,000, or that it possesses — $100,000 surplus or $50,000 surplus, with invested assets of $100,000, with contingent assets of not less than $300,000; or that it possesses $75,000 net cash assets, invested assets of $150,000, with additional continued assets of not less than $150,000; or net cash assets equal to its total liability with invested assets of $100,000, and contingent assets of $100,000. The above tabulated would read as follows:

	Invested assets.	Net cash assets, surplus.	Contingent assets.
1.	$100,000	Equal to liability	$100,000
2.	100,000	$50,000	300,000
3.	150,000	75,000	150,000

Of the New England (other than Massachusetts) Middle and Central States, the present laws regarding admission of mutual companies are as follows:

Maine	$200,000 net cash assets, reciprocal law.
New Hampshire	$200,000 invested assets, reciprocal law.
Vermont	$100,000 invested assets, reciprocal law.
Rhode Island	retaliatory law.
Connecticut	$150,000 invested assets, reciprocal law.
New Jersey	Net cash assets, $100,000, reciprocal law.
Pennsylvania	$250,000 net cash assets or surplus, reciprocal law.
Delaware	$100,000 assets, reciprocal law.

Maryland	$100,000 invested assets, reciprocal law.
District of Columbia	No requirements, no reciprocal law.
Ohio	$200,000 assets, reciprocal law.
Indiana	$50,000 cash assets in State, county or municipal bonds, reciprocal law.
Illinois	$100,000 net cash assets, reciprocal law.
Michigan	$200,000 net cash assets, reciprocal law.
Wisconsin	reciprocal law.
Minnesota	reciprocal law.
Iowa	reciprocal law.
Nebraska	reciprocal law.
Kansas	reciprocal law.
Missouri	reciprocal law.
Kentucky	$150,000 net assets, reciprocal law.
Tennessee	$50,000 cash capital or surplus above all liabilities, including reserve of not less than $50,000, reciprocal law.

I would say of this information, it is not absolutely correct, but it is the best information obtainable at the time; and perhaps you would like it for reference, and I submit it that way.

Q. Now, Mr. Welch, what portion of the insurance of risks in the mutual companies are located in cities? A. I should say from 60 to 70 per cent.

Q. At least more than half? A. Yes, sir.

Q. What is the ratio of your expenses for administration to your net premiums? A. I haven't that information absolutely for the whole field of all the companies, but there are twelve or thirteen of our companies doing business in the State of Connecticut, and from the figures taken from the last report of the Insurance Com-

missioner of Connecticut, the total expenses, underwriting expenses, to premiums of the mutual companies licensed to do business in that State, and all of them are Massachusetts companies, is 33.39 per cent. That includes 15 per cent commission. In fact, our mutual companies never pay over 15 per cent commission, except in the city of Boston, as far as I know. There, there is so much business in the hands of brokers, we have to pay 20 per cent in the metropolitan district. I would say, in addition, that the commission expenses of these same companies is less than 15 per cent, 14.84 per cent. That is accounted for in this way, that a great many of us are located in cities, where we have a large local business which we do over the counter, direct with the assured, and we save the 15 per cent in that way.

Q. Have any of the mutual companies which are members of the Mutual Union ever levied an assessment? A. Two, only two; the Quincy Mutual and the Merchants and Farmers; which I have referred to in my previous answer.

Q. That was for the great Boston fire? A. For the Boston fire, in 1872.

Q. Have any of these mutual companies failed to pay a loss? A. Not that I know of; no, sir.

Q. Now, give me a comparison of rates between your net premiums and the rates charged for a like risk by stock companies? A. In Massachusetts, on an average, dwellings, frame dwellings, in a city or town, large town protected by fire department and water works, the stock rate is 75 cents, and the average mutual rate is $1.25; that is the mutual companies charge $12.50, and pay a sixty per cent dividend; making a net rate of 50 cents.

Q. And the stock company rate is? A. 75 cents, or $7.50.

Q. Now, will you continue that down through other risks? A. Well, in risks that are rated mercantile buildings, the mutual companies charge a little advance over a stock company; that is, if the stock company rate is one per cent, the mutual company's charge is 1.10, and pay back about 30 or 40 per cent dividend.

Q. Making a net premium of? A. Making a net premium, well, in the case of a 40 per cent dividend it would make a net premium of about 65 cents, I should say.

Q. As against? A. As against one per cent. That is on a

three-year-term policy. On annual policies, one-year policies, we charge just the same as the stock companies.

Q. And you return how much? A. Twenty per cent.

Q. How much? A. Twenty per cent.

Chairman MERRITT: These percentages returned, do they vary from year to year, or are they flat? A. Practically they are a flat rate; that is because we have been able to do that. If a company should have hard luck, as one or two have had, they would average — they would average the rate of dividend to the yearly expenses, and one reduced it to ten per cent, and one to fifteen.

By Mr. HURRELL:

Q. That is, to recoup for the losses of the year before? A. Yes, sir.

Q. Of course the larger the gross premium to the charge, the larger funds you would have in the unearned premium fund out of which to pay losses, if they occurred? A. Yes, sir.

Q. Now, do you find that the citizens who are taking out a comparatively small amount, on household furniture, from $1,000 up, are fairly well educated to the idea of paying about 50 per cent more than they would have to pay originally to the stock company, and then getting back a dividend? A. I find that people who have been accustomed to mutual insurance and have lived in New England, Massachusetts, a good many years, will come in and ask for a mutual policy; but newcomers, people who come into Massachusetts from some other State, are rather inclined to take the smaller premium.

Q. You have heard that stated as a fact? A. Yes, sir.

Q. Now, why do you desire, that is, your company, for instance, and the other companies of your union, desire to spread out, and get into the State of New York? A. We would rather decrease our liability in the large places, and spread out over a larger territory.

Q. That is to say, you are contemplating, if a law was so arranged here that you could come in and be licensed within this State, that would decrease your liability in some other places where you are now insuring? A. Yes, sir; we would like to reduce our liability in several cities in Massachusetts.

Q. And so reduce the conflagration hazard? A. Yes, sir; and we would like to have companies from other States come in and take part of our liability there, and we would spread out into other States.

By Judge BRUCE:

Q. What would you consider a proper act, or a just act, under which you would be permitted to do business in this State? A. We think very highly of the Massachusetts law.

Q. Have you a copy of it? A. Yes, sir. It is in these laws, relating to Massachusetts, with the exception of one change that has been made, which I put into this exhibit, which I have submitted to you; one amendment.

Q. That is, you have summarized the law? A. Yes. The law is in that exhibit just as it stands to-day.

Q. Did I understand you to say that you are altogether satisfied with that law, and that is the kind of one you would advocate the State of New York to adopt? A. Yes, sir; we would recommend that law.

Q. And that has been on the statute books of Massachusetts about how long? A. Well, generally speaking, the general intent of that law has been on our statutes, as far as I know, the last twenty years.

Q. How long have you been president of this company? A. Since last August.

Q. And were you connected with it a few years before? A. Yes; secretary for thirteen years prevous.

Q. What is the attitude of the stock companies toward your system of mutuals? Can you tell me that? A. The attitude at the present time is very friendly. They have tried in the past to hamper us very much. One time they tried to prevent stock agents from handling mutual companies in their agency, but they found that it would not work, and we get along very nicely now with them in the same agency. A man goes into an office and asks an agent about it and if he gets anxious he tells him to take his chance.

Q. And throughout the East where you operate, your companies are in stock agencies? A. Yes, sir; in almost every case. Once in a while there will be an exception where we have to have a mutual agency.

Q. Do you find you are discriminated against by these agents where the stock companies have a graded scale of commissions for the same agents that handle your business on a flat 15% basis? A. I think that might happen occasionally, but on the whole I do not think it is any different, if the agent is square to both sides, and if he is not, he loses either one side or the other. If he puts the question up fair to the assured, in a great many times the dividend power, or the rebate power of the mutual company will attack the business.

Q. Now, that ratio of expense which you read from the Connecticut report, — that was a ratio figured by the actuary of the department, was it not? A. Yes, sir.

Q. That is the Connecticut department's figures? A. The Connecticut department's figures.

Q. And that shows that, on the average, you save on the expense item about eight or nine per cent. on the regular stock companies, does it? A. Yes. I did not look at their figures. They are here, though.

Q. Well, ordinarily the stock companies figure their expense ratio about forty per cent.? A. Well, ours was thirty-three and a fraction.

Q. About seven per cent. less? A. Yes, sir.

Q. When you gain in the rate, other things being equal, losses being equal, instead of paying dividends to the stockholders, you return that part of their premium not used in expenses and losses? A. Yes, sir.

Q. And your companies are all from twenty to thirty or forty years old? A. Yes, sir. The youngest one is forty-eight years old.

By Senator Wagner:

Q. Your rates, as a general proposition, are lower than the rates of the stock companies? A. The net rates are; yes, sir.

Q. The net rates, I mean? A. Yes, sir.

By Mr. Hurrell:

Q. Do you, at the end of any fiscal year, return to the policy holders all of the surplus the company has above the unearned premium? A. No, sir.

Q. What is your rule about paying the dividends? A. We make a flat dividend, and pay out practically the same dividend from year to year as long as we can. If some emergency comes up, why, we have to change it, by the :term, for such period as we think it is necessary to recoup.

Q. Well, take your own company, for instance, how many years, consecutive years, have you paid a twenty per cent. dividend? A. For thirteen years.

Q. Without a break? A. Without a break; except that of one year's business.

Q. What was the cause of that break? A. The break occurred before I went to the company. When I went there they had been paying ten per cent. They had been paying ten per cent. for the two years previous, but inside of six months after I went there it was raised to twenty per cent. on one-year policies, and has continued from that day until this.

Q. What, for instance, is your surplus now? What was your surplus at the time you made your last statement? A. $68,000.

Q. $68,000? A. Yes, sir.

Q. And that is held as a sort of reserve to pay losses, and also to keep this dividend even in case you had a bad year? A. Yes, sir.

Q. That is for the same purpose as any stock company would keep its surplus? A. Yes, sir.

Q. Well, do you have any rule about that? Do you aim to keep your surplus at a certain amount, or do you aim to pay this twenty per cent. dividend each year and let the rest, whatever profit there may be, go into the surplus? A. We aim to pay the dividend and give the policy holder a fair share as far as we can, and if there is any left we put it into surplus, rather than to increase the surplus by reducing the dividends.

Q. Does this statement anywheres show what the surplus of these various mutual companies are? A. No; it does not. I did not figure it from that.

Q. Well, what is the ordinary surplus for a company of your size? A. From $60,000 to $100,000.

Q. From $60,000 to $100,000? A. Yes; I think I can give you some of the cash surplus of some of these companies.

Q. Well, unless the answer would make it different than $60,000 to $100,000 — if you know that to be so we won't spend the time. A. That is the companies of the same size as ours. Some of the larger companies have larger surplus. They run from $350,000 to $375,000 in some cases.

Q. That is in the mutual union? Yes, sir.

Q. And they take about one-half of the gross premium, compared to stock companies, and return it to dividends? A. Yes, sir.

Q. Now, besides that surplus and the unearned premium fund, which is practically standard in all the States as two funds from which losses can be paid, then besides that, as an element of protection, you have the assessment feature which allows you to assess each policyholder five times, is it? A. Only once with our mutuals.

Q. Each policyholder is liable to all the other policyholders, or to the company, to pay his premium once again if it is necessary to pay losses? A. Yes, sir. We cannot in our case, according to our by-laws to-day, and according to the statutes of our State — we cannot assess a policy holder for larger amount than once.

Q. Is that uniform with all the companies in the union? A. That is practically uniform with all the companies in the union except two, and they have a double liability.

By Senator Wagner:

Q. Once up to that point, how high can you go in your assessment? A. Only as much as the premium paid.

By Mr. Hurrell:

Q. Double the premium? A. Double the premium and no more.

Q. Now, in that you differ slightly from the factory mutuals. A. Yes, sir. They charge five times, I think.

Q. And by those liabilities, there is a sort of an unliquidated fund out of which losses can be paid? A. Yes, sir.

By Chairman Merritt:

Q. Then the assured has got the surplus, the gross annual premium and an amount equal to that which may be assessed, as his security for the payment of his loss? A. Yes, sir.

Q. As I understand it, then, the comparison of the two forms of policies to the insured amounts to this: That, for instance, your rate would be $1.10, and the stock company rate $1. You would expect to pay back twenty-five per cent., to use that for the purpose of illustration. The assured then has the chance of getting back — that measures the chance of getting back the twenty-five per cent. dividend at the end of the period, and the chance of assessment under rule by the difference in the net premium, doesn't it? A. Well, his premium might be $11, just the same as he pays us. He pays us $11 for the policy and he might pay the stock companies $10. The stock company cannot force him to be assessed, but if that stock company, however, should fail in the meantime, he would have to buy insurance elsewhere, and it would cost that much more. Suppose the mutual company makes an assessment of $11. He has then paid no more than what he would have paid any stock company in the same case, and we might say that in the mutual company he would have his insurance right along, and so he would be just as well off in one case as the other.

Q. I see that point, but I do not know whether I made myself quite clear. The saving to the insured is based on — you may say, when he pays the stock company a dollar and gets no rebate, the difference between that and the net premium which he pays you, measures what he thinks is his chance of assessment is worth? A. Yes, sir. It might be put that way.

Q. Now, practically as the business has developed, is he getting a good deal for his money or not? A. Well, we think he is, because there has been no assessment for thirty-eight years.

Q. Does the growth of the business indicate that he thinks so? A. Yes, sir. The growth of business of our mutual companies has been very satisfactory. In some places we cannot grow any further. A lot of our companies have reached their limit in Massachusetts under protection in the cities.

Q. What is their limit? A. Well, where it can carry no more business in those places on account of the conflagration hazard, they do not dare to take any new business, except as one risk drops out and they take another to take its place.

Q. How is that limit fixed? A. There is no fixed limit.

Q. A matter of judgment? A. A matter of underwriting judgment of the management.

Q. You get at your schedule of rates from your experience, independently of anybody else, or do you, in some sense, follow the rate of the stock companies? A. In some sense we follow the rate of the stock companies, although the dwelling house rate has been an old-fashioned rate which has been in effect a good many years, and the difference in rate, if there should be any, is fixed in the dividend, rather than in the rate.

Q. The cost of administration is not much different, I suppose, in the two lines of business, is it? A. Well, I think that we are a little more economical.

Q. Do you pay as high salaries? A. We do not pay as high salaries, and we do not pay as high commissions.

Q. There is a saving in salaries and commissions? Do you find a saving in the percentage of fire loss between the two lines? A. I do not know that I ever followed that close enough.

Q. Do you have a better class of business? A. I presume we are supposed to have a better class of business, if there is any such.

Q. Do you devote your attention, to any such extent as the factory mutuals appear to, to perfect the condition of insurance property? A. We attempt to, but we are not successful.

Q. The difference in the character of the risk is so—— A. (Interrupting) And the character of the building and the people that occupy the risks.

Q. Assuming that the percentage of losses was much the same, and that there is an economy of administration and commissions, why, if you are right in your statements, the stock companies are getting too much, apparently, for the fact that there is no assessment and no co-insurance risk as against other property. They are getting a pretty good thing out of it apparently? A. Well, I am not familiar enough with the stock end of it to answer that.

Q. To listen to the other end of it? Do you have as detailed schedules as they do? A. No, sir.

Q. What about this classification matter that we had up with them? Do you keep classifications of your losses and rely on them mathematically, or is it still a matter of judgment? A. It is still a matter of judgment. You take two risks that are identically the same. They are not occupied the same, and they have not the same hazards. If they had the same hazards, you might have a different class of people which controlled the different ones. A

careless man, like the weakest link in a chain, is the great hazard there, and you may have all good men except one; one individual in that building, and he, through carelessness, may burn it. All your classification on the risk on the good people is gone. That has been our experience. We have kept a classification and found that it practically does not amount to anything to us. A man that can get up a good classification can get a good salary to put it into effect from both mutual and stock companies.

Q. That would be like getting a bank cashier who would loan money and never lose it, wouldn't it?

By Judge BRUCE:

Q. Do you have a co-insurance clause in your policy? A. Yes, sir. We use practically all the forms, — practically the same as the stock companies do, because we have to have concurrence.

Q. What are your views in regard to the valued policy law? A. We object to it.

Q. Why? A. We feel that is is a bid for incendiarism.

Q. Have you any other objection? As to the increase of the moral hazard? A. We think it does increase it.

Q. I say have you any other reason than that? A. No; I do not think so; because with our mutual companies we aim only to get good men, good people; all responsible people on our books. That is, we look very carefully to the moral hazard in the first place. As a matter of fact our policies are all valued policies with the honest men and under honest laws.

By Chairman MERRITT:

Q. You have the co-insurance clause? A. Yes, sir; we never take advantage of technicalities the way a good many of the companies do. We feel that we ought not to under the circumstances, we being mutual companies that are run for the benefit of the people that contribute.

Q. All very friendly? A. Yes, sir; we try to be.

Q. Do you have the eighty per cent. co-insurance clause, so-called? A. Yes, sir.

By Senator WAGNER:

Q. Are your rates affected at all by competition between you and the stock companies? A. Practically not.

Q. Rates in the City of Boston are fixed, are they not, by the stock companies, through a fire exchange? A. The Boston Board of Fire Underwriters handles the Boston territory and the New England Insurance Exchange handles it outside of that.

By Judge Bruce:

Q. Do you have any compact among your companies for the purpose of maintaining rates? A. Yes, sir; we do.

Q. Among the mutual companies? A. Yes, sir.

Q. What is it called? A. Well, it is a compact in a way, and still it is not, because no company is obliged to keep it. It is nothing but a gentleman's agreement, you might say, and then, in the case of some of our companies where the ordinary rate is 1 1-4 and they pay sixty per cent. dividend, companies that pay only forty or fifty per cent. on a five-year policy charge only a one per cent. premium. That is, we make the net rate to the assured the same if we can.

By Judge Bruce:

Q. Do you have a rate-making committee in the mutual union? A. No, sir; we have no rate making committee.

Q. How are these rates ascertained and maintained? A. Our agents have all the rates from the stock companies.

Q. And you accept those rates? A. We accept those rates if we consider them adequate. If we do not consider them adequate we decline the risk.

By Mr. Hurrell:

Q. Don't you raise the rate sometimes to get the risk? A. We do not ask for it, but we find it pretty hard, because if we do not take it some other fellow will take it at the stock rate.

Q. Do you find the stock rate usually adequate? A. That would be hard to tell. The mutual companies are not supposed to make a profit and if we quit even on underwriting, and they make some investments each year that yield something, we feel satisfied.

By Chairman Merritt:

Q. You feel that your flat rate, or the dividend, comparing one year with another, is practically what would be the result over

a period of years if you returned the exact dividend? A. It would probably average that in a period of ten years.

Q. Otherwise your surplus would be increasing or your salary list would be going up? A. Yes, sir; or, on the other hand, the surplus would be going down.

By Senator WAGNER:

Q. As a matter of record, how do your net premiums compare with the premiums received by stock companies upon the same class of hazards? A. Well, we have no means of knowing.

Q. In other words, how do the rates compare? A. Ours would be a little larger.

Q. The net — no; not the net; the gross.

MR. HURRELL: No; the net.

The WITNESS: The net would be lower.

By Chairman MERRITT:

Q. Do you find any particular evidence of a desire on the part of the people in this State to get into these mutuals? A. Yes, sir. We have had letters from quite a number of people wanting to know if we would write them in this State.

Q. Aren't there any of the mutuals that write any business in this State? A. Well, I presume locally there may be.

Chairman MERRITT: Do we have mutuals organized in this State, Mr. Hurrell?

MR. HURRELL: There are some town and co-operative mutuals, about which nothing has been said here; fire mutuals, and there are about four or five, if I remember it, or six other mutuals, but they are mutual in name only.

By Chairman MERRITT:

Q. Wouldn't you have to have a pretty strong demand on the part of those that desire insurance to get a fair line of business? Don't you think unless your commissions would be practically the same as the stock company's commissions, that you would? A. I think if we had power to enter the State, had the privilege of

entering the State and appointing agents, why it would not take us very long before we could build up a nice business. We think our method of insurance would be very popular.

By Mr. Hurrell:

Q. Would you ever compete by putting forth a net rate, with an assessment feature attached in a State where the citizens were not educated to this method of paying a pretty high premium and getting back part of it when their policy was canceled? A. No, sir; personally I should not advocate doing any such thing; I should not consent to it, as far as my company is concerned.

Q. Of course, you appreciate if you came in here you would probably have to carry on a campaign of education somewhat, in order to get business? A. We appreciate that to a certain extent.

Q. Have you ever been through such a campaign as that? A. Yes, sir.

Q. Whereabouts? A. In Vermont, and to a certain extent in Connecticut.

By Chairman Merritt:

Q. That is, where the rate was made a net rate?

Mr. Hurrell: No; where they had to go into a State that was not acquainted with the affairs of mutual insurance.

By Chairman Merritt:

Q. I wish you would tell me why it is any better — have you determined by experience that a certain percentage of dividends is a fair one and may be counted on from year to year — why is it better to collect that money and return it than it would be to make your rate what the net result would probably be? A. Well, if you could figure absolutely what the net result might be for a term of years given, you might be able to do that. On the other hand, you are unable to do that, and by the variation of the dividend in a lean year, you can cut that down and make it up by putting it a little higher for one or two years.

Q. Some years you would get it better? A. We might.

By Mr. Hurrell:

Q. Another very important consideration along that line is that the greater the gross premium you collect the higher is your unearned premium fund which must be kept on hand, and the greater is the security of the policyholder, by reason the greater that unearned fund is, the stronger is the company? A. Yes, sir.

Q. All things being equal, and considering that underwriting has been good.

By Chairman Merritt:

Q. But where you started out with the two propositions and you have about the same fire loss, and about the same cost of administration, and the net difference of 30 or 40 per cent., what are the things that the stock companies load that premium with except the chance that the assured is paying something for it in the mutual that should make it so much higher than the other? There must be some elements of loading in that premium that have not been analyzed. It is not simply the interest of the company, because none of the stock companies are big enough to make such a difference in the premium on the aggregate business of the year.

By Mr. Hurrell:

Q. I will ask you, Mr. Welch, do the mutual companies take on as large conflagration hazards as the stock companies? A. No, sir, they do not.

Q. Do they write in congested value districts very much? A. No, they do not.

Q. Would not that fact explain somewhat, or wouldn't it be possible, that that fact would explain the difference in the rates, and in this item that the Chairman has been speaking of, in that it would increase the losses of the ——

Chairman Merritt: (Interrupting) How could that if the hazard was equitably charged for?

Mr. Hurrell: The answer might be that the hazard was not equitably charged for.

Chairman Merritt: In other words, there must be a stop

rate somewhere. That is the thing we have been trying to get at. What was fair.

Mr. Hurrell: Yes.

By Senator Young:

Q. Do your companies get any risks in New York State? A. Yes, sir, I think we have, perhaps a half dozen risks.

Q. Written, of course, in your home office? A. Yes, sir.

By Senator Wagner:

Q. What nature? Factories? A. No. Mostly dwelling houses. Quite a number of people that used to live in Massachusetts have written on and had us write a line on their furniture, or on their house; quite a number of superintendents and owners of factory property here in New York State have got their mills insured in the factory mutuals, and they have written on to our mutuals and had their houses insured.

Q. It does not aggregate very much, then, here in New York? A. Oh, no.

George L. Barnes, called as a witness, being duly sworn, testified as follows:

By Mr. Hurrell:

Q. Where do you reside, Mr. Barnes? A. I reside in Weymouth, Massachusetts.

Q. What is your business? A. Attorney.

Q. Are you a member of, at the present time, the Massachusetts Legislature? A. I have recently been elected to the Senate. I have not yet been sworn in.

Q. Have you been a member in previous years of the Massachusetts Legislature? A. I was a member of the House of Representatives in 1904, 1905 and 1906.

Q. Did you serve on the Insurance Committee? A. I served on the Insurance Committee in 1906, and on a Recess Committee on Insurance in the summer of 1906, after the Legislature adjourned.

Q. Are you fairly well acquainted with the insurance laws of

Massachusetts as to the factory companies? A. I know something about them.

Q. And do you know, also, something about the operation of those mutuals, with miscellaneous mutuals, of which Mr. Welch is president of one? A. Yes, I have given some investigation and some thought to that proposition.

Q. Now, without taking up the time of asking you specific questions, you have heard Mr. Welch's testimony here? A. Yes, I have.

Q. And you have been before the Insurance Department in this State on one or two occasions concerning this class of insurance? A. Yes.

Q. I will ask you, generally, is there anything you wish to add to the record concerning these companies? A. There are one or two things that perhaps I might add. I had made some memoranda and I will try and eliminate what he has covered, so far as I can.

I thought one thing, that perhaps should be borne in mind here is that nearly all of our mutuals in Massachusetts have assets as large as you require, I think, for the capitalization of stock companies; that is, as large as you primarily require for them to start doing business, and I understand that to be $200,000.

In addition to that our mutuals in Massachusetts, in addition to those assets, have this right to assess which has been spoken of. That right is a valuable right, gentlemen, and that fact should not be overlooked. It has been said by some that it was not a particularly valuable right, because it has been said that you could not collect. That is not true. In the first place it is obvious you can collect, because every man who holds a policy is a property owner. He is a property holder; he must be in order to hold the policy, and on the table that Mr. Welch has produced for you, which was contained in the statement of Commissioner Tarbox, shows at the time of the Boston fire they collected by assessment hundreds of thousands of dollars, and that frequently, with one exception, paid its losses and its debts in full, so that that assessment feature is a valuable right.

For instance, in the Middlesex Mutual of Massachusetts, which is a fair representative of our mutual companies — it is not the largest and not the smallest — it has assets of some $654,000, and it has a right to assess for some $712,000, making a total asset in round

figures $1,300,000 that that company can secure as a given security for the payment of losses.

Q. That is what is meant in the Massachusetts law by contingent assets? A. Yes, sir.

By Chairman MERRITT:

Q. That is additional to the annual premium? A. No. That would include any annual premium, Mr. Chairman. That is the $654,000 of assets, including the property they have got; any cash in banks and everything which, of course, includes annual premium. Then, in addition, they have that $712,000 contingent assets. Those are round figures which are within a few thousand of being correct, though.

By Senator YOUNG:

Q. How would you proceed to collect from a person who held a policy on his property, after he had had a fire, if he immediately transfers his property to another man? A. If he does that, he has to do one of two things; he transfers the policy with it or he comes in and brings it in.

Q. No. He forfeits nothing about it. He sells the property to another purchaser. Then how would you collect? A. Of course there might be cases of that kind where you would lose it, but if it could be shown in Massachusetts that the property was conveyed solely for the purpose of evading or escaping the payment of any debt, you can still recover and attach that property under special attachment.

Q. As a lawyer, you know it is rather a difficult thing to do? A. I did it, though, the other day, and recovered the amount afterwards, but if a man *bona fide* conveyed and disposed of property I do not see any way that you could reach him.

There is another thing, I suppose, one thing that you would consider with reference to admitting Massachusetts mutuals, and especially consider, and that is their stability. In the first place there cannot be much doubt but what they are giving insurance at a less net cost to the assured than stock companies. The aim, of course, of mutual companies is to furnish insurance to the assured at

cost. That is the aim of it, and of course we all know that every premium that is paid to the stock company has in it a dividend to the stockholder, whereas a dividend paid to the mutual company has in it only a dividend to the policyholder, the return of premium, and assuming, as the fact has been shown, that their expense ratio is slightly less than the stock companies, the assured must necessarily get his insurance at less expense than from any other kind of insurance.

Our Supreme Court has said in Massachusetts that a mutual premium of a Mutual Fire Insurance Company is paid to the company and held by them in trust for several purposes: First, to apply it to its proportion of the cost of management and operation, rents, salaries, etc.; and, second, to apply it to losses; third, to apply it to such guarantee or surplus fund as may be permitted by the statutes; and, fourthly, to return to the policyholders all that is unused, and in that decision they say that it should not truly be called a dividend. It should be called a return of premium, which it truly is. That is what it actually is.

Now, I was going to say that I suppose a matter you would be chiefly concerned in, I assume, is that we have demonstrated we have furnished insurance more cheaply, is perhaps their stability. In that connection I thought this might be of interest to you: In my town of Weymouth I am on a small country savings bank, one of the trustees and one of the board of investments, and was for a good many years an auditor of that company. It is a small bank. It has deposits of about $1,300,000, but it is fairly representative of the savings banks of Massachusetts. As auditor of the bank for a good many years, I, of course, went over all its assets and funds and papers, etc. I should venture to suggest to you, gentlemen, that 75 per cent. of the policies of insurance held by that savings bank as additional collateral security on its real estate mortgage loans, payable to the bank in event of loss, are mutual policies, and I think that is fairly representative of our savings banks throughout the State, showing that the savings banks accept mutual policies as good security; in fact, want to get them, which is some indication of the stability of our mutual companies.

In addition to that, gentlemen, you, of course, are not acquainted with the personnel of the insurance companies, but I am so con-

nected with them in that regard so I can say it without conceit that the personnel of our companies is very high in Massachusetts. They are men of standing, judges of our courts; I am speaking now of the directors of those companies, judges of our courts and men of standing throughout the community.

By Senator Wagner:

Q. Do the laws of your State limit the amount which these companies can hold as a surplus? A. They do not. There was some change made in that a year ago. I was talking to Mr. Welch, and I am not clear just what it was. They did limit it to two per cent., and there was a change made a few years ago, I have forgotten just what it was. It was an act to establish a permanent fund; this is what it was up to 1909; there was some slight change made in that year. Up to that time they were permitted to establish a permanent fund until it reached two per cent. of the insurance in force, rather an interesting reason as to why that permanent fund had to be established by statute. I understand that some time or other in years gone by some policyholder said, these being mutual companies, he wanted the surplus distributed, and he brought a bill in equity to distribute the surplus; he was entitled to his *pro rata* proportion of the surplus, so in order to permit them to hold a permanent fund it is created by statute up to that amount. That our method of laying an assessment of an amount equal to the premium is sufficient to cover all losses was amply demonstrated in that Boston fire which has been spoken of. It has never been necessary to assess more than an amount equal to the premium, and in that case it paid all the losses in full, and all the debts, with the exception of one mutual company, which paid 85 per cent., and that was the greatest fire which, of course, ever swept Boston. In fact, it was so great that when you summon a witness now to the stand in Boston to produce books or papers even to-day, if he does not want to produce them he usually says they were destroyed in the Boston fire.

By Mr. Hurrell:

Q. Is there anything more you wish to say? A. I just want to say this: Massachusetts won't permit a mutual to start doing business until it has at least $1,000,000 of insurance subscribed for in

more than 400 separate and distinct risks, and Massachusetts also will not permit an insurance company to insure more than ten per cent. of its net assets in any single risk. Those are provisions which would inure to the benefit of your citizens insuring under your companies as well as our own. No companies can be organized except under those provisions. I don't know that I have anything further, Mr. Chairman and gentlemen. Those are the general propositions that I wished to submit to you. I think Mr. Welch has covered the other part of it. I am not experienced on the practical end of it.

By Judge BRUCE:

Q. What would you think would be a safe law to be placed upon the statute books of our State as to admitting these companies, in the event that it decided to admit them? A. We believe the law that we have is a fairly satisfactory law, and conservative and safe.

Q. That is, for the admission of companies organized outside of your State into your State to do business? A. Yes.

Q. Mutual companies? A. Yes, we believe that is a conservative law.

Q. What has been the experience in Massachusetts under the operations of that law? A. I do not know that many mutuals have come into our State under that law. I doubt if it is due to any effect, or the reverse, of the law. I doubt if many mutuals, perhaps, could come in and compete with our mutuals, they are so well established in Massachusetts; everyone knows of them.

By Chairman MERRITT:

Q. Do you know approximately what proportion of the total insurance of the State is carried in mutuals? A. I could not tell that; no, sir.

Chairman MERRITT: Do you know, Mr. Welch?

MR. WELCH: I do not believe those figures are available, Mr. Chairman.

Chairman MERRITT: What would be your guess, or wouldn't you want to guess?

MR. WELCH: I don't believe I should want to guess on that; it is a pretty hard proposition. In the dwelling-house business in

cities outside of Boston I should say the companies have a very comfortable proportion of it.

Chairman MERRITT: What would a comfortable proportion be?

MR. WELCH: I should say it would average right through the State better than thirty per cent.

The WITNESS: I would like to say further on behalf of the mutuals that your mutuals would not want our mutuals. The mutuals in the Mutual Fire Insurance Union would not desire any legislation which would admit to your State or any State where they were going any weak fly-by-night companies, so to speak. These companies in Massachusetts are stable companies, have been doing business for years, able to stand on their own feet, and are willing that any proper legislation and proper restrictions should be placed around them which are not prohibited; they believe there is no reason for prohibitive legislation, because they are amply able to do business and protect the interest of their policyholders.

By Chairman MERRITT:

Q. They do not want some company that is only temporary in its nature to assume the name without the virtue? A. No, sir; it hurts the whole field of mutual companies to have that kind of companies compete with us.

By Assemblyman YOUNG:

Q. Is there co-operation between the mutual companies and stock companies? A. In Massachusetts, you mean?

Q. Yes. A. I think not. I have been rather interested to see the rather friendly spirit in which the stock companies have received the mutuals in a way. I had supposed they were antagonistic. I think it has been due to the personnel of some of the men who were at the head of the Boston Board of Fire Underwriters, which are stock companies, namely Colonel Field. I have seen him before the Legislature when the mutuals were asking for something to their advantage, which I rather supposed they would oppose, and he said, in rather a nice way, there is a field for both of us, and we have no intention of antagonism. I was rather surprised.

Q. Then you think there is no real competition between stock companies and mutual companies in your State? A. Oh, competition?

Q. Yes. A. I have not observed any outright competition; no, sir.

By Chairman Merritt:

Q. In the citizenship of your State one plan addresses itself to a certain type of man as a little more favorable than the other? A. Yes, sir.

Q. It being a well understood fact that everybody won't buy in the same shop, anyhow? A. That is true. I think in the country districts they patronize mutuals a great deal more than they do stock companies. I know that is the experience down in my town.

By Assemblyman Young:

Q. On the adjustment and payment of losses which act more promptly, the stock companies or the mutuals? A. I don't know as I could state on that; they both act very promptly.

Q. In the adjustment of a loss do they co-operate? A. I couldn't tell you about that. Mr. Welch would have to answer that. You mean, where there is a stock company and a mutual company on the same risk?

Q. Qes. A. I could not tell you as to that.

Chairman Merritt: Mr. Welch, do they co-operate, the stock companies and the mutuals, when they have policies on the same properties, in the adjustment when there is a loss?

Mr. Welch: Yes. We send our men and they send a committee of one or two or more.

Assemblyman Young: Do you ever send the same man?

Mr. Welch: Yes, sir, very frequently; my former president was a director and adjuster, that was his special line, and he has done fully as much work in the last ten years, before he was obliged to discontinue working for the stock companies, as he did for the mutuals. The mutuals often get a report of a loss on a building, and they would say, Morse is at Fitchburg; we will let Morse adjust it. As far as the work goes between stock companies and mutuals, any man is satisfactory, with the exception, of course, of competi-

tion, which is principally between two different lines; but they are friendly in their work together.

Chairman MERRITT: Do you have much litigation over adjustments?

MR. WELCH: Practically none. Our Mutual companies paid over $1,000,000 in the Chelsea fire and never had a single case of litigation at all.

The WITNESS: They also established an office in Chelsea for the express purpose of helping people make up their claims and helping expedite the settlement of the fire losses in Chelsea.

JOHN R. WATERS, called as a witness, being duly sworn, testified as follows:

By MR. HURRELL:

Q. Mr. Waters, what is your business? A. I am in the fire insurance business.

Q. What is the name of your company or association? A. Well, the principal part of my business is the administration of an assembly of merchants and manufacturers who insure each other against loss by fire. There are three such groups in my charge; one of them is called individual underwriters or subscribers at individual underwriters; another is called subscribers at New York reciprocal underwriters; and the third is a sub-department of the second, and is known as New York Reciprocal Underwriters' large area segregation; I am also a broker in fire insurance.

Q. Mr. Waters, this Committee is investigating the general subject of fire insurance, and it is desirous of securing an accurate definition of each branch of the business, and desirous of knowing how the business is carried on in different lines. Will you explain to the Committee just how you insure individuals through these agencies you have mentioned, and giving the history of it, indicating how it commenced, how it got into operation, and any changes which may have taken place in the system, and how it is doing business now? A. This dates back to 1881. In the year 1881 six merchants were sitting at lunch at the Merchants' Club here in New York city. I was one of the six. We were discussing the difficulty of getting enough insurance of a satisfactory character on our mer-

chandise, and Mr. William H. Lee, the senior member of the firm of Lee, Tweedie & Company, a large dry goods jobbing house here, suggested that we insure each other's property for a small sum; so we agreed, as we sat at lunch, to write $2,000 insurance on the merchandse of each other, and when we left the club we had a binder, each one of us had a binder in his pocket for $2,000 insurance from each of the other five, which gave him $10,000 insurance. This agreement became known in a short time to other members of the club, and they clamored to be admitted to it, and that formed the nucleus of the individual underwriters. At that time there was not a sprinkler equipment in any mercantile risk in the United States, but we merchants, having to do with the mills of New England, knew what good and proper things sprinklers were, and one of our objects in coming together in this way was to educate each other to the practice of putting sprinkler equipments in their establishment. At the end of ten years we had so many merchants equipped with sprinklers that the equipped ones clamored for an organization of their own. They did not think they were getting a square deal, being mixed up with those who were not equipped; so the New York Reciprocal Underwriters was instituted for the purpose of satisfying those sprinkler gentlemen. The third organization was inaugurated some years later to satisfy the demands of some people who could not get enough insurance in our organizations as they then stood; they wanted what you may term an overflow group, in which they could get some additional insurance. These people were principally department store men, with very large area risks, and in those days the stock companies thought very shy of department stores, and would give only a small line on a department store, on account of the large area, and so this third organization was initiated, for the purpose of satisfying in a measure the requirements of these large area people.

Q. That is, you took out from among the membership those who had the largest risks themselves, and they insured each other? A. Yes, they insured themselves in addition to the insurance they had already in the main organization.

Q. And have you any statistics with you or any figures showing the amount of business which your underwriters are doing? How large a line can you place in your office, Mr. Waters, in one policy?

A. I can write in my office to-day on a single risk, if it is equipped with an automatic sprinkler, $1,139,425. The owner of that risk would have to be a subscriber in all three groups, because that represents the aggregate underwriting power of the three groups, but the actual nominal underwriting power is $1,340,500, but we have a practice of not using our full underwriting power *ab initio* on any risk, because we want to keep a margin of fifteen per cent. reserve underwriting power to take up the obligations of subscribers who may retire, so we start in by writing not to exceed eighty-five per cent. of the aggregate powers, and later it may be increased to 100 per cent., as the emergencies demand, if subscribers retire.

Q. Now, how do you issue a policy; that is, do you sign it as attorney for these various underwriters? A. We use the policy form, the standard form of the State of New York. It is modified by a preamble, which makes the wording of the standard form suit our method of reciprocal insurance, and at the bottom of the policy all the participants' names are signed by me as their attorney in fact, and against each name is the amount which each one assumes on the total sum of the policy.

Q. Is that a sample of the looks of one of the policies that you issue? A. Yes, that is one of them which has been canceled; that is the meaning of those holes through it.

Q. You place the names of each one of the underwriters and the amount they are to take out of the aggregate amount of the policy? A. Yes.

Q. At the bottom? A. Yes, sir; the bottom is on the other side; you see my signature there at the bottom of the list.

Q. Signed there as — signed as attorney in fact for all these people, and the total amount of the policy is written out in longhand at the bottom just over my signature.

Q. Now, what is the difference, Mr. Waters, between your individual underwriters and an ordinary mill mutual, or an ordinary mutual, taking on those large risks? A. There are various differences. In the first place, a mutual fire insurance company is a corporation organized under the law of some State. My subscribers are indivduals who are not incorporated, nor is any one of them responsible to any of the others. It is a private individual contract which they make with each other to give each other a certain amount

of insurance individually. Then, again, in a mutual company, the premiums are thrown into a general pool, and the losses and expenses are paid out of that pool, and the residue is divided among the policyholders *pro rata* to the premiums that they paid. Our system is quite different from that. With us every subscriber occupies a dual position. He is first an underwriter, and then a policyholder. As an underwriter he receives exactly what he earns in that capacity; there is no pool into which any moneys are thrown. The premium on that policy was at once credited to all the men who signed it, each man taking credit for his particular share. At the end of the year, at the end of the fiscal year, each man's account is debited with his losses and with his expenses, and they are deducted from his revenues as an underwriter, and the balance is his money. We send it to him in a check.

Q. That is to say, that each one of the firms whose names are signed to this policy get a particular credit which resulted from the splitting up of the premium paid on that policy? A. Exactly.

Q. And in your books you have an individual account with each one of these firms? A. Yes, sir, a ledger account for every subscriber, in which his revenues as an underwriter are credited, and his losses as an underwriter, and his expenses as an underwriter are charged, and the balance, if any, is his money; that is what comes to him in the process of his underwriting. His own policy does not figure in his account at all. The policy which he receives on his own property does not figure in any shape in his account.

Q. That is to say, if you had a man by the name of John Smith, who was one of your underwriters, he might be on two hundred policies? A. Easily.

Q. And assuming that he was on only two hundred policies, he would have two hundred credits arising from the two policies he was on, which would be his part of each premium as it was divided up; those would be his credits? A. That is it.

Q. Of course he would be at risk, his proportionate amount of each policy, the part of which premium he got? A. That is right.

Q. And if there was any losses on the policies that he had signed by you as attorney, then his proportion of the losses would be paid by you? A. It would be paid by me.

Q. And charged to him? A. That is right.

Q. And at the end of the year he would have a profit if he had more credits coming from these individual premiums?. A. Yes.

Q. If he had more credits than he had money paid out in losses by you? A. Yes, sir. It is not quite exact to say that he gets his entire balance paid out to him at the end of the fiscal year, because we have to retain enough to cover the unearned premium, and in addition to that we retain another large sum by way of an emergency fund.

Q. So that you are situated substantially at all times about in the same position as a large stock company; you have your unearned premium fund? A. Yes.

Q. Intact? A. Yes, sir.

Q. And in addition to that you keep from the various underwriters a certain sum which is tantamount to a surplus? A. Yes, sir; we retain out of the balance of each subscriber $4,000, a round sum of $4,000, which is amply large to cover the unearned premiums, and leave a difference representing a very handsome emergency fund.

Q. Of course you do business only with very large firms? A. We have to do business only with very large firms, because a subscriber must first qualify as an underwriter. We cannot afford to take as an underwriter a firm or a person or a partnership which is not gilt-edged, because he has got to have responsibilities, else the other subscribers do not want his name on the policy which we send to them. For instance, H. B. Claflin & Co. are a subscriber; Tiffany & Company, Lord & Taylor, McCreery. I can read you off some seventy or eighty of the biggest firms in New York.

Mr. Hurrell: If we may have this policy I will introduce it as an exhibit.

The Witness: Yes, you may have it.

Mr. Hurrell: I offer it in evidence.

(Admitted and marked Exhibit C 1. The same will be found in the Exhibit Volume.)

A. (Continuing) If I should send to any of these people a policy with a second-rate name on it as an underwriter they would throw it back at me. That does not mean that I am able to select subscrib-

ers. I have no power to do that. There is a committee of five of the subscribers who attend to that. All candidates must be submitted to this committee, and they decide whether or not the candidate measures up to the standard and is fit to be a subscriber.

Q. Wherein does your system of individual underwriters differ from the system known as inter-insurers? A. It is the same thing.

Q. How does it differ from the system known as Lloyds? A. Well, a Lloyds sells its insurance to the public. A Lloyds is in the business of making money, of making a profit in the insurance business. My people are in the transactions for their protection merely, not to make any money, but in order to get absolutely good, undeniable indemnity.

Q. The difference, then, is that each underwriter in your aggregation, he is an underwriter just as though he were an underwriter at Lloyds, the difference being in the market that he will underwrite on; that is to say, he will only take as his customers other members of the same association? A. He would only take as his customer, if you please, another individual, firm or corporation, that will insure him.

Q. And who has insured him? A. Who has insured him, and who is willing to have him insure him, he is perfectly satisfied with him.

Q. So that whatever profit he makes in his account he makes on his fellow-members or from his fellow-members? A. Absolutely.

Q. And not from the general public? A. Nobody can have a policy who is not a subscriber.

Q. I suppose the result of all of that is that the firms are not anxious to make an underwriting profit? A. No, they are not anxious to make an underwriting profit, but such a profit is inevitable under the circumstances of the high character of the persons engaged in these reciprocal transactions. We follow the rates charged by the stock companies, and it necessarily follows that, as our subscribers are the cream of the cream, that there is a profit left on those rates. Our expenses are only 17 per cent., as against forty per cent. insured by the stock company, so we have the benefit of that difference from the word go, between seventeen and forty.

Q. You pay no commissions to agents? A. We have no agents. Everything is done through my office in New York city.

Q. What is the average dividend that a man gets, one of your underwriters gets, on his premium, when he pays on his own risk? A. On risks that are not equipped with automatic sprinklers the dividend averages for twenty-seven years thirty-three per cent.

Q. That is on stock rates? A. Yes; that is to say, charging stock rates to the policyholders, the underwriters receive back thirty-three per cent. of those stock rates in cash.

Q. And still you have a surplus, too? A. Yes, sir.

Q. You keep out of that a certain amount of money to the credit of surplus? A. Yes, sir; and then the sprinklered risks show a return of seventy-six per cent. on the stock rates.

By Senator Young:

Q. On the stock rates for sprinklered buildings? A. Yes, sir; that is, building and contents.

By Mr. Hurrell:

Q. You differ from the mill mutuals somewhat, do you not, in the character of your risks, the New England mill mutuals? A. Absolutely, because the New England mill mutuals, although they are not so strict about that to-day as they used to be, confined their operation to sprinklered mills in the New England States, and would not take hold of any mill unless it was practically devoid of exposure hazards, so-called.

Q. That is, a separate building? A. If there was anything that menaced the plant nearby they would not touch it; their rules were isolation and sprinkler protection. They would rather that there were no fire department within hail of their risks, because they were so organized as to put out a fire without the aid of a fire department, and consequently they feared the water damage which a fire department would inevitably cause. When my subscribers began to insure each other in 1881, I was very friendly with Mr. Edward Atkinson, who was then the principal figure in the New England mill mutuals combination, and he told me that my subscribers would come to a very miserable end in trying to do as they were going to try, on account of their risks being situated in the congested districts of the cities. He said, "You can never possibly pull out with your

risks situated in that way in congested districts, exposed on all sides by all sorts of rotten hazards." Ten years later he confessed that he had been mistaken; he did not suppose that it were possible, but it turned out to be possible, and not only possible, but a great success.

Q. Now, that difference was represented by the difference between seventy-six and about ninetyfour, and the mill mutuals testified yesterday here that they paid back out of a dollar about ninety-six? A. That is right.

Q. And you pay back about seventy-six cents right in the middle of a conflagration district? A. Yes, sir.

Q. Almost exclusively so, is it not, in your largest class of department stores? The stock companies' officers in New York told me that the kinds of risks that we wrote, and upon which we show a loss ratio of fifty-one per cent., the unsprinklered risks, those same risks cost the companies over one hundred per cent; in other words, they make an absolute loss on that kind of business; wholesale hardware men; wholesale boots and shoes; wholesale groceries, and so forth, which we undertake to insure right in the middle of congested districts, they lose all their premium, and more, too.

Q. That is, you mean on the class, but not on the particular risks? A. No, not on the particular risks; on that class. The stock companies keep a record of their business by classes, breweries, boots and shoes, wholesale groceries, and so forth.

Q. I believed that until I met some stock companies on the stand, and I very much doubt it now. Do you keep any classification? A. No, sir.

Q. Have you ever kept any? A. We have never been able to see the logic of keeping classifications of risks by businesses or trades; a business or a trade in fire insurance should be, if it is not a mere label, a mere tag — it does not mean anything, it does not amount to anything. I can take you to a wholesale grocery which would look all right to the uninitiated, but which we would not touch at a ten-dollar rate; and I can take you to another one in the next block, which to the unitiated would look quite as good, and we would think it good business as fifty cents. Now, what is the use of putting groceries together in a comparison ledger and trying to figure out what they mean? They don't mean anything. If it be necessary or expedient to make any

classification for the purpose of comparing results, the classification should be graded by degrees of merit, irrespective of the business. There should be a standard of inspection, and the inspection returns should be handled by an expert who could say, this man belongs in Class A or B or C, as the case may be; I don't care whether he is boiling soap or making coffins.

Q. Do you believe that it is possible to get the business to a point where that classification by degrees of hazard could be made, and make it useful? A. It seems to me it would be the easiest thing in the world.

Q. You mentioned a moment ago about the experience of your companies on a class, and the experience of the stock companies, showing that your experience was very much below what theirs was. I want to ask you what system of inspection do you follow, or how do you account for the result of your low experience and their high experience? A. Well, in the first place, we have a great advantage in the selection of our subscribers. The very fact that a subscriber must be an underwriter gives him at once a certain immunity, as it were, from moral hazard. A man who is fit to be an underwriter in our office has not got very much real moral hazard behind him. We investigate him very thoroughly, not only through the mercantile agencies, but through our subscribers themselves, from all they know about him, and the advisory committee which takes charge of the candidate, and then before we will accept that subscriber, we ask him what he is going to offer in the way of risk to be insured. If he should be accepted then we make a very thorough examination of the risk. We put a man in there who, perhaps, will work a couple of days on it, making a very exhaustive report from roof to cellar as to all the physical points and details of the risk. We return that report, make up that report for the benefit of the subscriber, showing him what he has to do, and there is always something to do in order to bring the risk up to our standards. If he is not willing to do that, or at least to promise to do it, then we go no further with him; but if he will do the things that we ask him to do, or will give us a promise that he will do them within a reasonable time, then we will make a subscriber of him and give him insurance upon his property. Then we go to that risk periodically afterwards, as often as once in two or three months,

and go through it again, and report to the owner on the condition. We make a report of two things, improvements or corrections required, and improvements or corrections not required but desired, not insisted upon. Those that are required he has to accomplish, else we drop him from the subscribership and cancel his insurance. Our methods of inspection and the firmness with which we carry them out are really the keystone to the financial success of the subscribers. To-day there are 745 subscribers, individuals, firms and corporations, scattered throughout Canada and the United States from Quebec to New Orleans and from Seattle down to the Gulf, down to the Atlantic coast, 745 subscribers, and the insurances in force on the first of this month were $156,000,000. That averages about $210,000 per subscriber.

Q. Now, what shape do you think your individual underwriters, the three groups you have mentioned, are in to take care of a conflagration. A. We have been in conflagrations. We were in San Francisco and in Baltimore, and various other conflagrations. They do not bother us at all. We had the money in the office to pay the losses. But we have a method of avoiding any very serious loss in a conflagration by writing only one line on a city block or square.

Q. You mean taking one risk? A. Taking one risk, or the equivalent of one risk; that is to say, if there are two risks on the block, and one wants only half of our line, then we can give the other half to the other owner, but we won't go beyond the equivalent of a single risk on any city block or square; consequently if any subscriber sees in the newspaper in the morning that a certain block or square has been burned or wiped out, it does not bother him, because he knows he cannot have lost more than $2,000, if that is his undrwriting power, and he won't have lost that unless the loss is a total one, and he knows that there is plenty of money in the office to pay it.

Q. Without calling upon him by way of assessment or anything of that kind? A. Yes, sir.

Q. Of course that takes care of one block. Would you say that you did not have any conflagration hazard? A. No; we have a conflagration hazard. If a fire should burn up fifty blocks in New York here it would catch us probably on eight or nine blocks, and

we would then possibly have to pay a full loss on each of those blocks.

Q. And in the meantime how would it be catching the stock companies? A. They would pay about twenty-five cents on the dollar; we should be paying one hundred cents on the dollar.

Q. If you will reason that out for the record, how do you make that out? A. Well, because such a loss in New York city would deplete the resources of so many of the companies that when you come to figuring it out at the end of several years after, when the whole thing was adjusted, you would probably find that the average payment to the policyholders was twenty-five cents on the dollar; some companies, the Continental, the Home, the Liverpool & London & Globe, would pay dollar for dollar; others would not pay anything, or next to nothing, and I think the average would not be above twenty-five cents.

Q. Does that mean that the companies are so careless of their underwriting that they do not select risks with the same care that you do, as to scattering their risks over one line of a business block in any given city? A. There are very few companies that exercise any great care in the selection of their risks, very few; there are some; but the business of a stock company is to make money out of the insurance business, and they proceed upon the principle that the rate justifies the risk. There is hardly anything in New York so bad as a risk that you cannot get insurance on it. There are some properties which the companies won't insure, but as a rule the very worst properties are able to obtain insurance.

Q. Would it be possible in any one city, if the whole city should burn, to wipe out your aggregations? A. I do not see how that would be possible, because, in the first place, theoretically, all our subscribers are not limited as to their liability in this reciprocal work. The entire fortunes of Tiffany and Lord & Taylor and McCreery and Clafflin are behind their signatures on these policies. If we should have a loss to-day in Cleveland, and another one to-morrow in Detroit, and so on for thirty days in as many different cities, they would all be paid. It does not depend upon the money that may be in the office. It depends upon the millions of the private means which these gentlemen and firms have got behind them.

Q. You have stated that you came into the insurance business rather naturally from being a merchant? A. Yes, sir.

Q. And from the start with this idea of reciprocal underwriting? A. Yes.

Q. I presume you have been closely connected with insurance since that time, 1881? A. Yes, I have been familiar with insurance all my life, since I was a boy.

Q. Do you think the stock companies to-day are honestly endeavoring to get the rates down to a proper adjustment, as between classes? A. As between classes?

Q. Yes. A. What may you mean by classes?

Q. I withdraw that for the moment; and ask you if you believe the stock companies' rates to-day are equitable? A. Equitable?

Q. Yes. A. Well, the stock companies' rates to-day are not excessive, in my judgment, in view of the way in which they do their business. They need to have high rates in order to protect them against the classes of business which they do, the risks which they take, and which it is part of their business to take; because they say: "We are in the fire insurance business, to give insurance to people who want it, and if we think the rate is adequate, we will take it."

Q. Just to have it clear, you have no interest whatever in any stock company? A. Well, yes, I have a little interest. I am a stockholder in a small way in the Continental, as an investment. I consider the Continental the best-managed stock company in the United States.

Q. Then I will ask you, taking your answer, that you think the rates are not excessive, considering the way the stock companies have to do business —— A. You can see that for yourself, by the statistical results; the underwriting profit of the stock companies is very small. What does it amount to? A. It does not amount to 4 per cent. You can't call that an egregious profit on so hazardous a business as fire insurance.

Q. Do you think there is any inequality as between different classes of business; meaning by that, do you think the stock companies collect too high a rate upon one class, and too low a rate upon another class? A. Are you referring to New York city?

Q. Well, generally, throughout the country? A. The conditions change, and the facts, incident to a reply to that question, are different in most every city in the United States. What is true in St. Paul isn't true in St. Louis, and isn't true in Cleveland, and isn't

true in New York. You can't frame any definite answer to such a question unless you tie yourself down to one particular city.

Q. Well, take this community, then? A. No, I don't think so. I think the rates which the stock companies charge in New York, in view of their large expense ratio, and in view of the risks which they run of having to pay a conflagration some day — and they ought to work up a reserve against that contingency — I do not think the rates are too high.

Q You are familiar with their method of schedule rating? A Perfectly; I am a broker, as I told you in the beginning.

Q. Do you agree with that method of determining what the various rates should be? A. I think for the stock companies' purposes a schedule rating is the only true and proper way of arriving at the value of a risk.

Q. Do you think that the stock companies are earnestly endeavoring to reduce the fire hazard? A. In New York?

Q. Yes; all over the country; New York and elsewhere? A. I think they are more earnestly endeavoring to do it in New York than anywhere else; but you go to some other place and they don't want to reduce the fire hazard at all. That needs some explanation. The fire insurance business is conducted by the stock companies, but is not owned by the stock companies. The stock companies are merely the tools of trade of the local agent. If I should form a new company to-day with a million dollars capital, and perhaps a million dollars surplus on the side to start with, and wanted to do business, say, in Louisville, Ky., I would have to go cap in hand to the coterie of local agents there, and ask them if they will kindly accept this little company with $200,000,000 of real money, and try to make some money for me with it, and if they turned me down I couldn't do any business in Louisville. If I should get my back up and say, all right, I will do without you, and hired an office and men in Louisville, and tried to do the business direct, I wouldn't make enough money to pay my office rent, because the local agents of Louisville own the business, and for 25 miles around; they have got it, and carry it in their vest pockets, and nobody can do any business there unless with their permission. Now, for that reason the stock companies don't own the business. They simply hope to make some money through the agents. The agents are not interested in avoiding

fires. They are paid a commission upon the amount of premiums they receive; therefore, the higher the premium, the more commission they make, and the more premiums they receive the more commissions they get. To be without fires is a sorry condition for a local agent, and he knows full well when a serious fire happens in his bailiwick it isn't many days before the premiums come tumbling into his office from scared owners, who have been wrought up by the fire, and turn to their books to see how short-insured they were; and in the course of a month enough money comes in to pay the losses, which would not have come in if such loss had not happened.

Q. So that, in that way, you believe that the companies, acting through their local agents, are not always endeavoring to write business so that fires will not happen? A. Through their local agents, hardly; for I have had experience in my own office, in the cultivation of the automatic sprinkler habit. I have educated a given merchant, for instance, to come to the point where he will equip his place with automatic sprinklers, and local agents having discovered his intention, would go to him and say, "If you put in automatic sprinklers we will raise your rate." "Why?" "Well, we don't like them." Of course, they don't like them, but they don't give the real reason why they don't like them. The real reason is that the rate would of necessity come down sooner or later on account of this improvement, and their commissions would be cut to the same extent. But I remember cases where they said, "If you put an automatic sprinkler in, we will raise your rate," and the only reason they could give was that these new-fangled things were sure to cause a big water damage, and they considered that to be an additional hazard to the state of things as it now stands.

Q. That was the alleged reason? A. Yes; that was the alleged reason.

Q. How do you explain the interest of stock companies in the prevention of fire; simply through competition? They urge sprinkler systems, do they not? A. They what?

Q. The stock companies urge merchants, for instance, to put in sprinkler equipments? A. No; I never heard of a stock company urging that. I have heard of brokers urging it. I have heard of brokers who stand as it were, between stock companies and their

client, say to their client, why don't you put in sprinklers, and get your rate down, and give the client figures so he can see for himself where it will be a saving for him to put in sprinklers. But I never heard yet of a stock company advising the putting in of sprinklers.

Q. Of course, that claim is made by stock company interests, that the fact they have reduced the rate a way down on sprinkler business shows that they are endeavoring in their way, along with others, to reduce the fire hazard? A. They have put down their rates on sprinkler hazards, because of the existence of the New England Mill Mutuals, and of my office. The stock companies laughed at us in the beginning. It isn't more than ten years ago that the president of one of the strongest companies in New York city asked me in a friendly way if I really thought there was any virtue whatever in automatic sprinklers. That is less than ten years ago, and we had been educating people to the use of the automatic sprinkler in mercantile risks for thirty years, and yet this gentleman, one of the most intelligent men in the business, was not able to see then that there was anything to them. He was still under the superstition that they were good for factories but had no place in mercantile risks. Now the reason why they are putting down rates on sprinklers is simply because they see so many people going into reciprocal underwriting, and in the mill mutuals. The mill mutuals, you know there are two groups of mill mutuals — one which has its headquarters in Boston, and one is in Providence. They are called, respectively, the senior and junior mutuals. The Providence mill mutuals have of late years, the last ten years, spread out into cities. They have not insisted on the isolation, and conditions of the factory insurance that they formerly did; but they go into cities and select nicer risks there, and insure them. Now, the stock companies seeing this business disappear from them, become desperate, and they say to their agents, who have even been organized for the purpose, "Get that business at any price." "Go in there and offer them the best deal you can, and get that business away from the New England mutuals, or the reciprocal underwriters." That is their interest in putting down rates on sprinkler business. Of course, they are now convinced that it is good business, and they want, if they can, to preserve it.

Q. And would your judgment be that the rates charged by stock

companies, that are taking mercantile sprinkler risks, are adequate rates for those stock companies? A. No; I do not.

Q. That is, you think they are losing money by it? A. I think on the whole, they will lose money by it on the long run, because the rates at which they are competing for that business, without any rime or reason, without any schedule; simply get the business; will not in the long run prove to be adequate, because, even in sprinkler risks there are losses; even though the fire might be quite small, the water damage may be quite large.

Q. That is, you think, owing to the expenses incident to the business of the stock companies, that they would naturally have to charge a higher rate than one of your interests, or the mill mutuals? A. Not for that reason exactly; but because they don't discriminate, as we do, in regard to the moral hazard. The moral hazard is one-third of the risk in insurance. By moral hazard, I do not mean simply the piety of the individual, of the policy holder, I do not mean that; but I mean his proclivities towards care, discipline, order, cleanliness, his housekeeping, his system of running his business; all that, in my mind, is included in the words "Moral hazard," because those are things which the stock companies take no cognizance of. To them a wholesale boot and shoe house is a wholesale boot and shoe house. They cannot, in the very nature of the things, take into consideration the real moral hazard of a policy holder.

Q. Well, of course, they have undesirables, some of the things you have mentioned, in their schedules, don't they? A. Some of those we consider undesirables?

Q. Yes. A. Oh, yes; in New York, there is no cutting, because the companies faithfully adhere to the schedule ratings here, and in Philadelphia and in Boston; but when you leave the Atlantic coast, there is no further observing of schedule ratings, that amounts to anything.

Q. It is a hit or a miss competition for business? A. As far as sprinkler business is concerned; yes.

Q. What stock companies, what association of stock companies compete with you for the sprinkler business among themselves? A. Well, the companies compete individually, each company by itself; and then they have assocations.

Q. Is there any significance in that factory insurance association?

A. Yes. They formed several such associations, with a sort of special organization, whereby, in the first place, the commissions are reduced to five per cent., or thereabouts; and various other things, so as to lessen the expense ratio on that kind of business. And special men are put in charge of it, to go around and to get it, as it were, over the heads of the local agents.

Q. Well, following out the idea of the mill mutuals as to inspection and securing the business? A. To my mind, they don't make any inspections to speak of; it is the business they want.

Q. You have mentioned the fact that you are also a broker in New York city, and I recall an article that was published in one of the commercial journals here, the New York Journal of Commerce, and Commercial Bulletin, in which you advocated that the commission of the brokers should be paid by the assured, instead of by the company? A. Yes.

Q. Is that your belief? A Yes; I think it is something that ought to be done for many reasons. In the first place, under the law the broker in held to be the agent of the policy holder. Now, in common sense it would seem to be proper that the agent should be paid by his principal. But here we find the broker to be the agent of the policy holder, and yet he gets his commission, his compensation, from the company. But outside of that, there is an institution here known as the New York Fire Insurance Exchange, which controls the organization of brokers, and one of their rules is they will not pay any commission, any brokerage commission, to anybody who has not been licensed by that exchange. A man desiring to do a broker's business, and to collect his commissions on it, must get a license. Anybody can act as a broker, but he can't collect his commissions unless he has a license; therefore, there is no point in being a broker. You have got to go and make application to be admitted to be a broker, and pay for the license, and accompanying this license the broker has to sign a pledge, that he will not rebate any portion of his commission or brokerage to his client; or for that matter, to anybody else, except he may divide it with another licensed broker.

Now, there are said to be 8,000 licensed brokers in New York city, and I have never yet heard of one of them being brought to book

for rebating his commission. Now, anybody here, knowing anything about human nature, knows that such a thing must have happened in thousands of instances, that the broker must, in order to get business, have promised a rake-off on his commission. I know it be a fact that that is happening all the time. I myself have lost clients because I would not rebate part of my commission to them. They told me that other brokers had been to them offering to make a rebate. I find that it is absolutely impossible to get any new brokerage business unless a rebate is offered, because the first thing the prospective client says, is, "What are you going to allow me out of your commission?" It is usually done in the shape of a lower rate. That is to say, if the schedule rate is 70 cents, the broker will say, "Well, I will bill you the insurance at 65 cents, but, of course, you will get the policy at 70 cents. Or he makes whatever method of rebating he chooses to adopt. But that is the one most often resorted to.

Q. Do you mind saying, Mr. Waters, in order to give your last testimony force, about how much insurance you place, as a broker, in a year? A. You mean in premiums?

Q. Either way. A. Or in principal sums?

Q. Either way; make it premiums? A. Premiums?

Q. Or make it the other, if you prefer? A. I suppose about $20,000,000.

Q. Of insurance in force? A. Of the sum insured; but it used to be very much larger. But as I said, I have lost one half of it through this miserable pledge business, because I haven't been willing to rebate any portion of my commissions, and a merchant naturally does not give a fig for the pledge, that has nothing to do with him, if he can get a saving on his insurance outlay, he is willing to do it.

Q. Do you imagine that situation would still be the same if, instead of that anti-rebating idea being a section of the rules of the exchange, it were put into the statutes of the State; do you think that would tend to avoid that discrimination, if it were put into a law, as it is in life insurance? A. It is so easy to evade such a provision, that even if it were made criminal in a statute, it would still be practiced.

By Chairman MERRITT:

Q. Why should it be? A. Why should what be?

Q. I do not see the logic of the objection to the rebating system; I never could. If a broker is the agent of the assured, what real difference does it make what their trade is, how much he gets for placing that business; the company don't rebate. We don't want that, of course. A. The companies have, as I explained, exacted from the broker that he shall sign a pledge.

Q. I understand that. A. That he won't rebate any portion of his premium. Now, an honorable man when he signs the pledge ——

Q. Keeps it? A. Has no intention, and is not willing to break his word. But those who are not so punctilious don't care about it, the pledge to them is nothing.

Senator WAGNER: Your personal view is no such pledge should be exacted?

The WITNESS: Absolutely no pledge exacted, no. And what would be very much better would be to turn around and stop paying any commission to brokers by the companies. Let the man who wants the broker pay him.

Chairman MERRITT: And pay him what he has a mind to?

The WITNESS: Yes; or whatever he is worth. Take a large house, like, let us say, H. B. Claflin & Company. They need somebody to attend to their insurance affairs, because their insurance affairs are very colossal. Now, they have got to engage a man, pay him a salary for that purpose, or they have got to make a dicker with some person who knows the business outside, and let them say, if they don't want to engage a man of their own, let them say to the man outside, "How much will you attend to our fire insurance affairs for; will you take a salary, or will you take a commission on the principal sum of insurance?" which is a far more equitable way than to take it on the premium — "Will you accept a commission on the principal sum, so many millions of insurance as it may come, or upon the premium — " and come down, and perhaps make a dicker. Now, hundreds of thousands of commissions are paid out to brokers in New York city to-day, for no reason in God's world at all, excepting that the broker can get it. The people would go for their insurance in hundreds of thousands of cases; they would go and

get their insurance directly at the office of the company, or the company's agent, and then the company would not pay any commission to any broker. There would be no necessity for it. Why should a man who has got a dwelling house up town, who must have insurance, who knows he needs the insurance, why should he go and pay that man this insurance commission, in many cases twenty-five per cent., paid out of it to a broker, because he comes in between?

Chairman MERRITT: Unless the man don't want to bother with it? A. He has to bother with a broker anyway.

Chairman MERRITT: If he goes now to the counter of the insurance company?

The WITNESS: Yes.

Chairman MERRITT: Without a broker?

The WITNESS: Yes.

Chairman MERRITT: In that case, they keep the per cent?

The WITNESS: But they don't pay him any commission; and he would say, what is the good; I will see if I can't put this poor fellow in the way of making a commission, and I will do it.

By Mr. HURRELL:

Q. And the result of that would be to make a lot of broker's insurance agents; that is, wouldn't a lot of the brokers prefer to keep on getting their commissions from the companies, and therefore, wouldn't they apply to the companies, and say, make us agents? A. You mean change the name of broker to agent, and carry his office around in his hat just the same?

Q. Yes. A. If a law were enacted making it illegal to pay any brokerage, or any commission to agents not established in a regular office, that would cure that objection.

Q. Well, from your experience as a broker, and with brokers, wouldn't you expect a considerable opposition to such a suggestion as that from the 8,000 brokers now in the city; or is your opinion pretty well centered among brokers? A. I don't think more than eighty out of that 8,000 would approve of it.

By Assemblyman FOLEY:

Q. These eighty would become agents, wouldn't they? A. Possibly.

Q. And the other men would have to go out of business? A. Not all of them. I think there is room for a thousand *bona fide* brokers in New York to-day. I think I should continue to be a broker, and be in much better shape than I am now as a broker, because, there would not be any loss by employing me, there being no pledge about it, and I would be able to make terms with profitable owners that would be suitable to them, and to me, and they would take me for my experience, and my supposed honesty and expertness in the business.

By Mr. HURRELL:

Q. Do you think if it was made compulsory to put the commission paid prominently on the outside of the policy, that that would gradually adjust itself when the assured knows just exactly how much his broker was getting out of what he paid his broker? A. The insured know that now. And if the insured could get the brokerage fees himself he could go direct to the counter and get it, he would not employ a broker, but he knows he can't get any brokerage, because he isn't a broker; he isn't certified; he hasn't any license.

Q. Do you think a law which permitted or enforced, in cases where owners should go to the counter to get their insurance enforced the paying of the brokerage to the owner, would be a good statute, or that its effect would be good? A. No; I think it would be a very unjust and very unscientific law. The idea of forcing a man who has something to sell to give a discount on the commodity to the buyer seems to me to be out of the question.

Q. Your objection is to the method, not to the idea itself, as I understood your answer a moment ago? A. I think it is unscientific from every point of view.

Q. Would you think it a desirable practice? A. No; certainly not.

Q. To have a merchant, if he should go to the counter and get his insurance, get back his own commission fees? A. No; I don't think so; because it would result differently in practice; every merchant who had been getting a colossal amount of insurance placed, doing that. It would simply mean that that percentage would have to be added to the premium, and he would pay it in the long run.

Q. The companies would have to have more clerks, to take care of their counter business? A. But the policyholder would pay that in the long run, although he might seem to put it in his pocket at the time; it would be added to the rate of premium.

Q. Do you think, Mr. Waters, that there is anything the State can do to ease off the complaints against the Fire Insurance Exchange of this city; do you think the complaints against the Fire Insurance Exchange, because of its practices, is not well founded? A. I think the methods of rating of the Fire Insurance Exchange are all right. The rates which they promulgate are fair. But their practices in respect to brokers ought to be abolished. And I don't see any way of abolishing them except by prohibiting the companies from paying any commissions to brokers. In other words, following the line of my newspaper article, there making the policy holder pay the broker. If he wants a broker, let him pay him.

Q. What do you think of a law prohibiting the companies of the exchange from making discriminations between individuals, and allowing the State to issue licenses to brokers, if they have to be licensed? A. I think that would make it worse than ever.

Q. Why? A. Why, because the practice of rebating would simply be increased, *pro tanto* with the number of brokers, a man would not want to be a broker unless he could get the commission. There is no fun in being a broker and not making money out of it. Unless he could get commissions he would not want to be a broker, and therefore, would not want a license, and getting a commission, he would be in a position to rebate, and it would be a question of "pull devil, pull baker," who would rebate the most.

Q. Have you any suggestion that the Committee can consider concerning this very proposition that you put up; that the licensing of brokers by the exchange is to a certain extent an evil; have you any suggestion other than taking away the power of the companies to pay him a commission? A. No; I can't see any other way out.

Q. And if the influence, or the clamor of the eight thousand, is strong enough to prevent that suggestion from being adopted, you regard the case substantially as hopeless, do you? A. Yes; I understand these eight thousand men naturally have a large influence, their collective influence is very great, and they could probably make it very difficult to legislate along that line.

Q. What do you think of the expenses of the stock fire companies now; commissions to agents and the other expenses; you are more or less familiar with their operations; do you think the expenses are excessive? A. I think the expenses for agent's commissions, and for brokerage commissionse are excessive; yes.

Q. Can you indicate particularly what amounts you would think would not be excessive? A. Well, speaking of local agents, commissions to local agents, that system of paying commissions to local agents should be reformed altogether. They should not be paid commissions at all. They should be made to expect their revenues, their incomes to come from the success of their agencies. A contract should be made between the insurance companies and the local agents, whereby, the local agent should get a certain percentage of the profit made in his territory by the company. The company might establish him in a comfortable office, and furnish it for him at the company's expense, and give him supplies, and all the rest of it, and leave the results to his own efforts. Now, then instead of welcoming fires, he would try his level best to prevent them, because every fire that happened in his territory would diminish his income. As it is to-day, it increases his income. You see he is just turned topsy-turvey. He is working with the wrong animus all the time.

Q. Of course, some fires would keep him from getting any contingent profit for several years? A. Yes; that might be governed by putting him, in addition to providing him with an office, and facilities for doing business — by giving him a living salary, just enough to keep body and soul together, but let him work, as other people work, for a living. My living depends on the success of my business. I don't ask people to pay me something for nothing.

Q. Do you believe it would be advantageous to the business in the State to have a fire marshal law passed, covering the whole State? A. I would consider it a very fine thing if fire marshal laws could be observed thoroughly. There are plenty of them now, scattered around the United States, but mighty little attention is paid to their existence.

Q. You think the idea is all right, but —— A. The fire marshal is a very valuable officer, if he does his work, and tends to his fires. But it is very seldom that you ever hear of a fire marshal doing anything. Every fire ought to be investigated by a

proper officer, and no loss should be paid until the fire marshal certifies that it is proper to pay it.

Q. Would you believe in giving a fire marshal, if you had one, the power to say whether a fire was or was not incendiary in its origin? A. Well, that is what he would be for. The principal function of the fire marshal is to find out what caused the fire, with a view to preventing a recurrence in the future, and, on the other hand, to ascertain whether there was any crookedness about it on the other.

Q. Of course, I can conceive of that where the evidence shows the fact concerning the fire whether or not they are set on fire, and which a jury in a suit in court would decide in favor of the company, which a fire marshal could not decide that way, and still could not prove the property was set on fire? A. If he could not prove it; I would require of him a written report on every fire that happened, and, until that report was made I would hold up the insurance company from paying the loss. My subscribers have been interested quite recently in a fire at Portsmouth, Ohio. We have been trying our level best to ascertain the cause of that fire. We should have had the assistance of the fire marshal. There is a fire marshal out there but he has not thought it worth while to take any note in the matter. Here was a fire which broke out in the morning between twelve and one o'clock, on the top floor of a wholesale grocery house. There had been some men working that morning on the roof, some tinners. There was no ceiling on that top floor, nothing between the boards underneath the roof and the top loft, and possibly these men may have dropped some solder down through the roof, or they may have been careless with their tools and apparatus as they went in and out on the fourth floor. Lots of things may have accounted for that fire, but they have made no inquest on it. It will go down as a total loss; go down in history as a total loss, and nobody ever knew the cause of it.

Q. Is there anything else, Mr. Waters, in connection with your particular system of insurance that you wish to mention, in addition to what you have mentioned? A. No, sir; excepting that I may say that after 28 years of running along without any State supervision in New York city, the stock companies have finally prevailed upon the New York Legislature to bring us under the wing of the

department at Albany. For what purpose, I do not know, excepting it may be to do something and get us to pay some fees for examinations and other things up there. The examiners were in my office a fortnight ago, five of them were there for two weeks, trying very hard to find something, but they could not find anything, and they went away satisfied, but I failed to see just why a merchant, or you and I, for instance, cannot be free to insure each other against loss by fire, in a friendly, neighborly way, if we please to, without having to be sent to Albany to be looked over. Doesn't that seem to be unreasonable to you?

Q. Well, I would not undertake to testify at this time. A. Then another thing, this question of taxation; taxation of insurance: I Would like to say this: That insurance should be free of taxation. There should be no charges on the business of insurance; fire insurance I am talking about now. Fire insurance is a commodity which is in the nature of a raw material. If every merchant and every manufacturer and every owner of property except vacant lots which do not burn, insured his property, it is an economical error to burden that transaction called fire insurance, with a tax, because it simply makes the fire insurance cost so much more. The companies do not object to the tax. They add the tax to their premiums, and a little more, by way of salt, with it. They do not mind it, but it gives them a certain dignity. You know a taxpayer is always looked up to as a great big man. But why should it be that we men who come together as individuals and agree to insure each other, as we did across the lunch table in the Merchants Club 29 years ago — why should we be called upon to pay taxes or fees or be under anybody's surveillance at all? There should be no taxes on fire insurance. If it be deemed advisable to have a department, a State department to oversee the thing, let the taxpayers at large pay the expense of doing it. You know there are a lot of people who do not buy any insurance at all. They carry their own risks. John Wanamaker is one. John Wanamaker has not for many years paid a dollar to insurance companies, except where he had to; where he had a mortgage on a piece of real estate and the loaner of the money required insurance. Then he had to supply it, but where he does not have it, in a few cases of that kind, he carries his own risk, and why should not that man be made — if it is proper to tax

reciprocal underwriters, or tax anybody — why should not he be taxed for what he does not do. He is avoiding this tax by insuring himself. The property owner who insures himself only in part — you know, some people are very niggardly, they do not want to pay out more insurance than they can help, and instead of insuring themselves up to a reasonable value, they will let it go and say that they will not burn out anyway. Why should not he be made to pay a tax upon the balance that he does not put up to the companies. You take the question, let us say, of the fire department and the fire patrols, and, as it is called, the salvage corps in various places. Now, the salvage corps is supported by the stock companies. My office pays its share to the salvage corps in New York city and other places, but Wanamaker has the benefit of that salvage corps just the same. If Wanamaker's store should take fire on Broadway, the salvage corps would go there and work just as hard as for anybody who had insurance. You are not entitled to any more. He sponges on the companies for that.

Q. It was a company's activity? If it was not, he would have to pay taxes. A. If the fire patrol was thrown into the general taxes then Mr. Wanamaker would pay his share of it.

Q. He ought to be taxed, apparently, if he is getting the benefit without paying, except that sometimes we do profit by the energy of others without having participated ourselves? A. That is right.

Q. We are lucky in that case. The stock companies, Mr. Waters, draw the distinction between insurance as a commodity and a contract pretty sharply, or undertake to do so, and it strikes me that your sort of insurance, the character of the contract is even more clearly defined than in the sale of ordinary insurance, don't you think so? A. Our method of reciprocal insurance may be likened to an agreement that you and I might make with each other. That I shall send to your store $2,000 worth of goods and you shall send to my store $2,000 worth of your goods, so that if a fire happens to either of us, the other one will have $2,000 worth of goods to go on in business with the next morning, because they were not in the place which burned. See what I mean?

Q. Yes. A. That would be the sort of insurance in which no premium passed, but there is a certain expense in carting the goods back and forth. We avoid that expense by simply changing

pieces of paper, instead of taking the goods back and forth. Why that private business should be taxed or watched over by the ——

By Mr. Hurrell:

Q. Of course, if your underwriters are in the state you say they are, the insurance department would undoubtedly so certify? A. So certify?

Q. Yes. A. Oh, they have given us a copy of the reports of the examiners, and everything is in good shape.

Q. And if that continues on all right, but if, sometime your reciprocal underwriters should come in the hands of someone who would not run it the same way you do, or go out and get in men and pay no attention to the moral hazard, why this supervision of the department might amount to something in advising the respective members as to whether or not the concern was right? A. Well, I think I told you a little while ago that I have no influence nor authority to admit subscribers. That is done by five of the subscribers themselves. They hold that entirely in their control, and then, in so far as the accounts and transactions are concerned, this advisory committee engages a certified public accountant who comes in every month to the office and goes through the books and accounts, and independently of anything we have to do with them.

Q. How many underwriters have you now? A. I gave them to you a little while ago; 745.

Q. Do you know, offhand, how many of these inter-insurance associations, reciprocal underwriters, there are throughout the country? A. There are at least 100. Our success naturally created the desire on the part of other people to do likewise, and now you will find, if you go west — you will find them to the tune of about 100, in all sorts of things; most of them are doing special work; that is to say, there are three or four organizations which confine themselves almost altogether to lumbermen's property; standing lumber and lumber yards, and things like that; saw mills, etc. And then you will find reciprocal underwriters under your various other kinds of business.

We had a big fight in Ohio a year ago. There is a gentleman in Cincinnati by the name of Johnson, who is the legislative agent of the stock companies in Ohio. He is also a Senator of the State and

he is also chairman of the Senate Committee on Insurance. I might say, incidentally, that the Assembly Committee on Insurance, composed of nine gentlemen, has seven of its members in the fire insurance business, stock company fire insurance business, and this force lined up against four mutual reciprocal underwriters to knock it out, and their scheme was to impose a tax of five per cent on the premiums paid by merchants and manufacturers and others in Ohio who had the temerity to purchase insurance on their properties in Ohio other than in the licensed channels of the State, the taxes to be paid by the policy holder; and that bill would have gone through, just as it stood, had it not been that after the conflict had been waged for two or three weeks, there came up, as it were, out of the void, a man who represented a reciprocal underwriting office composed of 8,000 railroad conductors, who were insuring themselves against injury and accident that they might incur in their vocations as railroad conductors. Senator Johnson got a body blow when he saw that. He had not looked for anything of the kind, because that was 8,000 votes, not to say anything about the talkative character of the average conductor, and the result of the appearance on the scene of these conductors was that he eventually sounded that in all offices where the inter insurance is for protection and not for profit, the tax of five per cent. should impinge upon the cost of the insurance and not upon the initial premiums. Well, now, as the cost of our insurance to our subscribers is very slight compared with the initial premium, the tax is very small on our subscribers, and the general consensus of our people in Ohio was that we had better pay it, and be glad it was no worse, but that shows you how the cat is jumping.

Mr. Hurrell: Have you any questions further, Mr. Chairman?

Chairman Merritt: No, the Committee will stand adjourned until 10 o'clock to-morrow morning.

Adjourned to Friday, December 9, 1910, at 10 A. M.

TWENTY-EIGHTH PUBLIC SESSION OF THE LEGISLATIVE INVESTIGATING COMMITTEE.

ALDERMANIC CHAMBER, CITY HALL,

NEW YORK, *December* 9th, 1910 — 10 A. M.

Present.—Hon. EDWIN A. MERRITT, Jr., *Chairman.*
HON. ALEXANDER BROUGH, *Vice-Chairman.*
Hon. ROBERT F. WAGNER,
Hon. WILLIAM W. COLNE,
Hon. VICTOR M. ALLEN,
Hon. JAMES A. FOLEY.

Hon. M. LINN BRUCE, *Counsel.*
ALFRED HURRELL, Esq., } *Asst. Counsel.*
ISIDOR J. KRESEL, Esq., }

Chairman MERRITT: The Committee will be in order.

DAVID GIDEON, called as a witness, being duly sworn, testified as follows:

By Mr. KRESEL:

Q. Mr. Gideon, where do you live, please? A. I live at Sheepshead Bay, New York.

Q. And what is your business? A. I am a breeder of horses and racing.

Q. A member of the Metropolitan Turf Association? A. I am; yes, sir.

Q. How long have you been that? A. Ever since its organization.

Q. How long is that? A. Oh, it must be — I don't know; 12 or 15 years I guess; I do not know exactly.

Q. And you are a member of the executive committee of the association? A. Yes, sir.

Q. How long have you been a member of that committee? A. Oh, I believe ever since it has been organized.

Q. Have you ever held any other office in the association? A. No, sir.

Q. Have you engaged in bookmaking? A. No, sir.

Q. Do you know Mr. Evans? A. I do.

Q. Do you know Mr. Edward Burke? A. I do.

Q. He is the chairman of your organization? A. Yes, sir.

Q. Have you any idea where Mr. Burke is? A. Not the remotest.

Q. How long since you saw him? A. I have not seen him — the last time I saw him was in September.

Q. How long ago? A. Almost two months ago.

Q. And Mr. Sullivan, he is your secretary, have you seen him lately? A. No. Let me explain something. I do not take any active part. I have not been to any of the meetings for three or four years. They just elect me, because I am one of the oldest members, more out of honor than anything else, and I was not present at any of their meetings at all, and I do not know anything absolutely about it. I do not see these men at all.

Q. Well, how long since you attended a meeting of the executive committee? A. I do not believe I have been to one in four or five years.

Q. Well, is that simply your belief or —— A. (Interrupting) No; that is a fact. I have not been there in a long time, because I do not want to be exact about dates. It might have been three years ago, because you cannot tell, but I have not been to one in many — three or four years, surely.

Q. Suppose we take, as a point of time, the legislative session of 1908? A. I have not been to any of the meetings since then at all. That I am sure of.

Q. You have not attended any meeting of the executive committee of the Metropolitan Turf Association since then? A. No, sir.

Q. Since the spring of 1908? A. No, sir.

Q. Of course, as a breeder of horses — and when you speak of horses, Mr. Gideon, you mean racing horses? A. Yes, sir.

Q. As a breeder of racing horses you were very much interested in the legislation pending in 1908? A. Why, yes.

Q. Not only as owner of horses, but also as a member of this association? A. Well, generally; yes.

Q. And what steps were taken by the Metropolitan Turf Association to do what it could to prevent the passing of this legislation? A. So far as I know there were not any steps taken.

Q. Are you prepared to say that they took no steps? A. I am not prepared to say that; I do not know of any steps that had been taken. If there had been any I do not know anything about it. I cannot say any more than that. Individually, there may have been some taken, but I know, as the association, I know there has been no active part taken, because then I certainly would have known something about it.

Q. You did not attend the meetings? A. No; but I would meet men in going to the racing every day; meet men belonging to the association, and members of the committee would certainly have spoken to me about it.

Q. Now, individually, what form did the action take? There was something done by these individuals whose business existence was threatened by this legislation to—— A. (Interrupting) Well, if there was, I do not know.

Q. (Continuing) — to attempt to block the legislation. Now, what was it, Mr. Gideon? A. I do not absolutely know anything about it; no, sir.

Q. You know, Mr. Gideon, that there is nothing illegal in hiring a lawyer to present your views, even to the Legislature? A. I understand that. I am not trying to hide anything. If I knew it I would tell you in a minute.

Q. Were there any lawyers hired for that purpose? A. I only know from what I heard in the testimony here.

Q. That we are aware of ourselves. A. That is all I know about, and that is all I can tell you. They hired lawyers, I know. We paid lawyers' fees for other matters in the way of — that is, some ways back there, along about 1908, the people backing these people

were retained by us to defend certain actions brought by the public against the bookmakers, etc., and they represented us at that time, but that was long before this time that you speak of in 1908.

Q. Do you know Mr. Orlando Jones? A. I do.

Q. You were a member of the executive committee when he was treasurer? A. Why, yes.

Q. And he was also a member of the executive committee? A. Yes.

Q. What are the sources of income of the Metropolitan Turf Association? A. Well, there is not any income outside their dues, etc. Dues; that is all.

Q. Dues, etc. — what do you mean by the "so forth?" A. Well, they have a club room. They engage in playing cards and things like that. Whatever that brings in I do not know.

Q. Yes. A. That is about all the sources of income they have I know of.

Q. Do they levy assessments upon their members? A. I have never been assessed myself, only in cases of death.

Q. Yes. We have had that. Any other assessment? A. Never in my life.

Q. Any other collections made? A. Never.

Q. Either by the association or by any officer of it? A. Never did I pay one nickel.

Q. Well, you may have been very much more fortunate than the others, Mr. Gideon? A. Well, I may have.

Q. But do you know of any assessments having been levied? A. Never, counselor, never.

Q. For any purpose whatsoever? A. Never one nickel.

Q. And we are not at loggerheads about the word "assessment," are we? A. Not at all; no misunderstanding.

Q. No question in your mind but that you understand what I mean by the word? A. Perfectly.

Q. A collection or contribution? A. Perfectly. I understand what you mean.

Q. Did you hear me read Mr. Jones' testimony yesterday? A. Yes, I did.

Q. Do you recall that Mr. Jones testified that from time to time the Metropolitan Turf Association levied assessments upon its mem-

bers, which assessments were collected by the secretary and disbursed by the executive committee as it saw fit, without reporting to the members? A. I did; I heard that testimony.

Q. And did you also hear me read Mr. Jones' testimony to the effect that such an assessment was made in 1908, for the purpose of hiring lawyers to present the views of the Metropolitan Turf Association to the Legislature concerning the —— A. (Interrupting) I heard that.

Q. (Continuing) —— anti-racing bill? A. I heard that; yes.

Q. That is not true? A. No, I would not say it is not true.

Q. What would you say about it? A. Well, you can only say that I did not pay no assessment, for the very fact — well, I will explain, if you will permit me.

Q. Yes. Certainly. Go on. A. I paid no assessment because I was not an active bookmaker. Maybe, I presume what he meant by these expenses was they had to be paid by the people that were employed in the bookmaking business, and these lawyers were engaged to defend their actions, and I did not participate in bookmaking, and consequently I had to pay no assessment. Now, that is all I can ——

Q. (Interrupting) In other words, if I understand you, you say that the assessments that Mr. Jones was talking about were the assessments collected from the active bookmakers? A. I presume that is it.

Q. And, as far as you were concerned, you individually were not, in 1908, an active bookmaker, and therefore did not pay it? A. I never was an active bookmaker; no.

Q. Your answer about active bookmakers leads me to ask this question, Mr. Gideon: What was the arrangement between the bookmakers and the racing associations concerning the payment by bookmakers for the privilege of erecting their stands or placing their chairs within the ring? A. I could not tell you, counselor; I do not know.

Q. Don't you know what payments were made? Don't you know what payments the bookmakers made daily? A. No, sir; if they paid any I do not know anything about it, and what they paid I do not know anything about.

Q. Well, without inquiring as to the amount of such payments,

you know, don't you, that there was an arrangement between the bookmakers who made book within what was known as the betting ring of the racing association grounds? A. Yes.

Q. To pay to the racing association for that privilege? A. You say I do know?

Q. Yes. I ask you whether that is not so? A. Not as I know of; no, sir.

Q. Now, how often, Mr. Gideon, does the executive committee of the Metropolitan Turf Association hold meetings? A. Well, I could not tell you. I have not attended to one for so long that I do not know when meetings have been called.

Q. You get notice of the meeting when it is called, don't you? A. Well, I guess I do, because I have paid so little attention to it that I never attended any.

Q. Well, Mr. Gideon, elections in your association are held every year? A. Yes.

Q. You have been elected and re-elected for the past three or four years without your attending? A. Yes, sir. In all this time for ten years, maybe, they have elected me, as I told you, more for the honor's sake than anything else. I have never attended any meetings——

Q. (Interrupting) For the past three or four years you have not attended any meetings? A. I have not, certainly four, or maybe six, it might be. I do not know. It is hard to tell between four and six years; when you just mention a certain length of time it is hard to tell whether four or six years. It might be more than that.

Q. Well, you feel, don't you, as a member of the executive committee, that you have some responsibility? A. Absolutely none.

Q. You do not consider yourself at all responsible for what actions are taken by the committee? A. I haven't attended any, and I did not seek the election. They just did it out of an honor to me. That is all.

Q. Well, are you aware what records are kept by the association of its financial conditions? A. Absolutely none; no, sir.

Q. Do you know what books the treasurer keeps? A. I do not.

Q. Do you know what books the secretary keeps? A. No, sir.

Q. Do you know whether any proceedings of the executive committee are kept? A. I do not know of any.

Q. Mr. Evans has testified that all the books of account of the Metropolitan Turf Association have been destroyed or burned; do you know of that having been done? A. I did not; never knew a word of it.

Q. Well, do you know whether that is true? A. I do not.

Q. Until you heard it testified to here yesterday, you were not aware that your books had been destroyed, were you? A. No, sir. That is the first I heard of it; right here.

Q. In Mr. Evans' testimony yesterday, Mr. Evans was unable to account for a certain item of $20,000 that was credited to your association on its check book as a deposit in the Mutual Bank in May, 1908. Have you any knowledge of the source of that $20,000? A. Absolutely none.

Q. When assessments are levied by your association, are written notices of such assessment sent to the members? A. Well, no, they are not. The only thing I know is when a member dies you get notice of it, and you are supposed to pay $50 as a contribution — not as a contribution. It is an agreement each member, you know, gets so much money after his death. That is, the family does, and you are supposed to pay $50, and the last — that is all I know about it — and I paid, I think, $250. Five members died, and that is a long time ago, and since that I have not paid anything.

Q. That is an agreement, you say, in writing, is it? A. That each member signs? A. No, no; just an understanding.

Q. Is that provided for by your by-laws? A. I think so; yes.

Q. And it is $50 for each death? A. Each member; each death; yes, sir.

Q. And you have paid $50 for each death every time a death occurs? A. Oh, yes; of course.

Q. There is no question about the amount, is there, Mr. Gideon? You are sure it is $50? A. No. There is no question about that. It is $50.

Q. The reason I ask you whether there is no question is because Mr. Evans testified it is only $25? A. I paid $50. I do not know anything about him.

Q. You paid $50? A. Yes, sir.

Q. I believe you. I believe you paid $50. Now, you say you made these payments many years ago. Have you made any within recent years? A. Not within a year or two.

Q. Well, have you made any since —— A. (Interrupting). Maybe within two years, I do not know.

Q. Have you made any since the 1st of January, 1908 A. I might have paid last year; yes. I should have paid it last year, or think I did, but I won't be sure as to that.

Q. When you made payments you made them in check? A. No, I think not; I think I paid Mr. Sullivan $250.

Q. In cash? A. Yes; I am not sure, you know; I might think — I didn't pay any attention to these things, you know.

Q. Now, Mr. Gideon, let us try to get this; did you make your payment in cash or in check? A. I could not tell you.

Q. You have your check stubs, haven't you? A. Yes; I could find out, but then it was mere detail; it did not matter how I paid them at that time; of course I did not know these things were going to come up.

Q. I do not question that at all; I am simply trying to find the facts? A. Yes.

Q. You have your check stubs, haven't you? A. I don't know whether I have got them up to that time; it might be two years ago; I don't know whether I saved them or not.

Q. Assuming the payments you made were made since the 1st of January, 1908? A. Yes.

Q. Have you your stubs for your checks since January 1st, 1908? A. I will tell you; the better way to answer that is I will find out and see whether I have and then I will tell you. I won't say whether I have or whether I haven't. I might have them and I might not have them.

Q. You made the payments personally, did you? A. Yes.

Q. To Mr. Sullivan? A. Yes.

Q. Not Mr. Evans? A. No.

Q. All of your payments you made to Mr. Sullivan, did you? A. I think the only payments I made, so far as I can remember, within this limited time.

Q. Within the three years? A. Yes, two or three years, whatever it might be.

Q. And it was $250? A. $250.

Q. There is no question about the amount? A. No, there can't be no question about the amount; I know I paid him $250.

Q. And that, you understood, was a payment as a contribution of $50 for each death? A. Yes, sir.

Q. And such notice of death was not given you in writing? A. Yes, I think it was.

Q. You think it was? A. Yes.

Q. Do you recall who the members were that had died? A. No, I could not. I don't know one-quarter of the members, to tell you the truth, so I could not tell you.

Q. Are you quite sure, Mr. Gideon, that those payments were for death claims? A. Well, I paid the money with that idea, anyway; that is all I know about it. I presume it was.

Q. If you paid it in check, Mr. Gideon, on what bank was it drawn? A. On the Columbia Bank.

Q. Is that the only bank you kept an account in, in 1908? A. Yes.

Q. Are you sure the payment was made in 1908? A. No, I am not.

Q. Do you think it was made subsequent to 1908? A. No; it might have been later.

Q. That is what I mean; later than 1908? A. Yes.

Q. You think it was? A. It might be. I won't say as to that.

Q. Now, besides this $250, Mr. Gideon, have you paid any other money whatsoever to Mr. Sullivan or to Mr. Evans, or to any other person who is a member of the Metropolitan Turf Association, since the 1st of January, 1908? A. Well, I might have paid dues; my dues are $25 a year; if there was any money paid, that was the only money that was paid.

Q. You were pretty regular in paying your dues? A. Yes.

Q. As soon as they became due you paid them? A. Yes.

Q. Pretty soon after the due date? A. Yes.

Q. You were not one of those that remained in arrears four and five years? A. No, sir.

Q. So that in 1908 and 1909 you paid how much in dues? A. Well, $25 yearly, whatever they are.

Q. That is $50? A. Yes.

Q. So that your entire payments to the Metropolitan Turf Association since the 1st of January, 1908, were $300? A. Yes.

Q. No more? A. Certainly not.

Q. And such payments, you think, will show in your check book? A. Well, if they do not show in that I paid it in cash; I won't say as to that.

Q. Did Mr. Sullivan come to your office and ask you —— A. No, I met him at the race track.

Q. And you made the payment at the track? A. Yes.

Q. Did you get any receipt? A. No.

Q. Never got any receipt? A. No, sir.

Q. If that was paid at the track, are you quite certain that it was in cash? A. Yes, I am almost sure it was in cash, but I won't be so positive about it.

Q. And, of course, while this legislation was pending, Mr. Gideon, you had talks with gentlemen who were interested in breeding horses or in running races, about the legislation? A. Oh, yes; many talks, pro and con.

Q. Had you talks with Mr. Sullivan? A. No.

Q. Or Mr. Evans? A. No.

Q. Mr. Burke? A. No; I cannot say that we had any, only in a casual way we might; you know how those things are.

Q. Did you know, Mr. Gideon, of the employment of counsel by the Metropolitan Turf Association to take care of the interests of any of its members who should be arrested? A. Yes; I believe there was such an ——

Q. How did you learn that; at a meeting? A. No, from the members, from the committee, and so forth; they hired lawyers and so forth.

Q. What committee did you learn that from? A. The executive committee.

Q. Some member of the executive committee? A. Members of it; I don't know who.

Q. Mr. Gideon, these meetings of the executive committee were not very formal; you did not get any written notice that at such and such a time a meeting would take place; wasn't it a fact that whenever you five gentlemen got together you held a meeting? A. No.

Q. Whenever it was required that you should hold a meeting you held one without any formal notice? A. Whenever it was required?

Q. Yes. A. I never attending meetings.

Q. Didn't you hold meetings at the track? A. I didn't, no.

Q. How did you come to learn of this employment of counsel? A. I meet these people every day at the race track and talk matters over in a general way as to the business, and so forth, as to whatever might take place; that is all I know about it.

Q. Do you remember this anti-racing legislation passed in June, 1908? A. Yes.

Q. How long before that time did you learn of the employment of counsel? A. I think it was long before that.

Q. Long before that? A. Yes.

Q. Several months before that? A. I presume it must have been.

Q. And the counsel that you learned were employed were Davies, Stone & Auerbach? A. Yes.

Q. So that these laws, before they even became law, your association was hiring counsel to take care of its members if they should be arrested, is that right? A. No, not particularly arrested; there was a law, I believe, at that time where they could sue for the return of their money if they lost it, and there was a number of cases pending at that time on those actions, and that is how these attorney were employed to defend these actions.

Q. You knew that these attorneys were to get $12,500? A. I don't know exactly what they got. I know they were engaged. I don't know how much they were to be paid. I was not a party to it.

Q. But there is no question about it but that they were employed to do this work while this legislation was pending and before it became a law? A. I think before, long before this legislation ever — before Mr. Hughes was ever Governor, this law had been enacted, you know.

Q. Perhaps you and I are working at cross-purposes. I am talking about the employment of Messrs. Davies, Stone & Auerbach and Delancey Nicoll? A. Yes, sir.

Q. For which work they received $12,500? A. Yes, sir.

Q. In 1908? A. Yes; I beg your pardon, counsellor; I understand that these people were employed long before that in these other cases that I spoke of. I don't know anything about anything else. Do you understand what I mean?

Q. Do you know what services these gentlemen performed for

which your association paid them $12,500? A. I don't know how much they got for their engagement in these actions; it might have been that much, but I don't know how much. This was long before this, before these bills had been pending; they used to defend the actions of the bookmakers when people used to sue.

Q. Do you know Mr. Holden? A. Yes.

Q. What is his connection with the Turf Association? A. I don't believe he has any connection with the Turf Association, that I know of.

Q. Isn't he employed there? A. Not that I know of; no.

Mr. KRESEL: That is all, Mr. Gideon.

J. D. KIEFER, called as a witness, being duly sworn, testified as follows:

By Judge BRUCE:

Q. Where do you reside, Mr. Kiefer? A. Freeport, N. Y.

Q. What is your business? A. Storekeeper and merchant.

Q. Are you connected with the Board of Trade of Freeport? A. Yes, financial secretary.

Q. I want you to explain the conditions with reference to fire insurance in your community, and state whether or not you have any complaint to make to the Committee in regard to the matter? A. The principal complaint would be the enormous increase in rates in the past two years, making, in some cases, business houses double, and in some cases more than double the original rate of two years ago, without apparent cause. The fire department, of course, it must be considered, has been improved, until it is as near up-to-date as the New York city department, apparatus improved, increased membership, and a very efficient company, and it seems, with the increased efficiency of the fire department, the rates increase, and without cause, as we think. A rate that two years ago would be about seventy-five cents on the hundred dollars is now $1.50, and in some cases $2, without apparent cause. That is one of the principal complaints.

Q. What have you done to ascertain why the rates were advanced? A. The only thing we could do is to ask the agents with whom we do business why, and they can give no answer.

Q. The rates in your town are fixed by the Suburban Fire Exchange, are they not? A. So I understand.

Q. How large a place is Freeport? A. About 5,000.

Q. And how far from New York? A. About 23 miles, according to the Long Island Railroad schedule.

Q. And how large a fire department have you? A. Five companies, of an average of fifty men each.

Q. And what is your water supply? A. The water supply is a stand pipe about 125 feet high, with a pressure at its base of 63 pounds per square inch; this I ascertained from the engineer.

Q. Now, you say during the last two years the efficiency of the department, both with reference to its personnel and also the apparatus, has been increased? A. Increased and improved.

Q. And have you, individually or in your official capacity in connection with the Board of Trade, brought this to the attention of the representatives of the fire insurance company? A. Only to the agents, local agents.

Q. They are the representatives of the fire insurance companies, are they not? A. Yes, sir.

Q. Has this advance of rates taken place upon any particular line of property, or has it been extended to all properties within your corporate limits? A. As far as the committee has been able to find out from the Board of Trade it is only on business property.

Q. That is, mercantile risks? A. Mercantile insurance.

Q. Has your Board of Trade ever endeavored to communicate with the Suburban Fire Exchange with reference to this question of rates? A. Not to my knowledge.

Q. Now, have you any other complaints to make to the Committee in reference to your treatment by the fire insurance company? A. No. The rates seem to be the principal reason.

Q. Has this been a uniform advance or has the advance been larger upon specific pieces of property than upon others. A. It seems to be general; whether there have been buildings erected in the vicinity or whether the buildings have remained just as they were, it seems to cover the entire business district.

Q. A general advance in rates on mercantile risks? A. Yes, sir.

Q. You say prior to two years ago — take your own property; what was the rate there upon your property two years ago? A. Seventy-five cents.

Q. That is prior to two years ago? A. Yes, sir.

Q. When did this advance take place? A. About two years ago.

Q. And how much was your rate advanced? A. It was first advanced to $1.50, and on individual complaint of mine it was reduced to $1.35.

Q. $1.35? A. Yes, sir.

Q. And was any explanation given you by the agent why this advance had taken place, such a radical advance? A. Only that the combination of companies formed on William street gave them that rate, and that is the rate they were compelled to give me.

Q. You refer, of course, to the Suburban Exchange? A. The Suburban Exchange; other companies were willing to give me insurance at a lower rate, and after taking that insurance within two months the agent would come and give me a different policy and take away the old one and say, "I will have to advance your rate, there has been a change." I could not tell the inner details. And later he would change it again, and finally raised it to the combination's rate, and say that he could not keep my policies in the old companies because the companies were forced out of the community.

Q. Was there any other market in which you could obtain your insurance excepting these companies represented in the Suburban Exchange? A. There were. There are not now.

Q. What other companies were there at that time; you mean companies who were not then members? A. Who were not then members.

Q. And have since become members? A. Become members, as the agents now tell me; were forced into membership or forced out of business.

Q. Are there any companies that you know of now who are writing risks in Freeport who are not members of the Suburban Exchange? A. I don't know of any, personally.

Q. Then I understand you that that is the only source from which you could obtain protection? A. Is through the Exchange.

By Chairman MERRITT:

Q. How did you get the notice, written notice, or did the agent come to you with a new policy, or what? A. The agent would come to me with a new policy.

Q. He did not furnish you with a slip or anything of that kind? A. The details I would not know exactly, but he informed me that he could not carry my insurance in that company, that he would have to ask me to go in a different company, at an increased rate.

Q. Then, when he had done that, he would come around again and raise that? A. Raise that again on a different company. Finally he was forced into the Exchange, and could write no policies outside of the companies represented by the Exchange.

By Judge Bruce:

Q. Are you here to-day by direction of the Board of Trade making this complaint upon their behalf? A. Yes, sir.

Q. And also on your individual —— A. Individually at the same time.

Q. Can you give me illustrations of the advance of rates on any other properties in Freeport except your own? A. My neighbors; my immediate neighbor had a rate of eighty cents; he is now paying $2, in fact a little more.

Q. What is his name? A. Williams.

Q. First name? A. S. A.; Silas A. Williams. On the other side, in talking to a harness maker, whose building has never been touched within twenty feet on either side with any new building, the rate went from 75 cents to $1.50. In talking to a druggist last night, whose building is far away from any changes, his rate was about 75 cents two years ago, and is now $1.25.

Q. What is his name, please? A. Charles P. Smith, druggist.

Q. Has this advance taken place in properties outside of the corporate limits of Freeport, do you know? A. That I could not say positively. At the time rates were changed I was informed by the agents that rates would be changed generally in Nassau county.

Q. Up to during the past two years, or shortly prior to that time, have you had any large fires in Freeport? A. None whatever.

Q. These advances were not due to any large loss which the companies had sustained in your town? A. Not at all.

By Chairman Merritt:

Q. Did they ever represent that you had had your insurance for a long time at too low a rate? A. Not at all.

Q. That you ought to consider yourself lucky up to that point? A. Not at all; nothing like that had ever been told me. It seemed as though the insurance agent and the companies were making plenty of money and getting along on their rate at the time and they did not say that they were doing it any too low.

Q. Had you had in your community any unusual amount of fire loss? A. No, sir.

Q. No conflagration or anything of that sort? A. No, sir.

By Assemblyman FOLEY:

Q. Have you got any figures on the losses in the last year or two years; has your Board of Trade made any effort to get that? A. They have made no effort to get figures on that, but in the past two years there has been no fire to amount to over $100 that I know of in the entire corporate limits.

By Chairman MERRITT:

Q. Have you a paid fire department? A. Volunteer entirely.

Q. You have an engine? A. We have a steamer.

Q. And for that sort of thing you must pay those people something? A. Well, the horses are paid for, I believe.

By Judge BRUCE:

Q. How long have you resided in Freeport? A. About seven years and a half.

Q. And how long had this rate of seventy-five cents been accorded you prior to the advance? A. Up to two years ago.

Q. All the time you had been resident in Freeport? A. All the time.

Q. And, as far as your knowledge goes, was that true of the other members of the Board of Trade? A. True of the other business property. Residential property I do not think has changed any; in fact, in talking to them, they don't remember, most men seem to have very poor memories on the rates when questioned very closely.

By Mr. HURRELL:

Q. Didn't I understand you in private conversation this morning to say that an alleged reason was given you for the increase on your

business property by reason of bad exposure? A. Increased buildings.

Q. Yes; didn't I understand you to say one reason was there had been another building in your block and your exposure was worse? A. That was one reason given by the agents.

Q. That was a reason given you when you sought to find out why your advance was made? A. Yes, but when we tried to find out why the general advance was made there was no reason; simply on one or two buildings.

Q. How far away was the building in the block that exposed you? A. Personally?

Q. Yes. A. 300 feet.

Mr. HURRELL: That is all.

Judge BRUCE: Mr. Lucas.

THOMAS W. LUCAS, called and sworn as a witness, testified as follows:

Examination by Judge BRUCE:

Q. Where do you reside? A. Freeport.

Q. What is your business? A. Real estate and insurance broker.

Q. How long have you resided in Freeport? A. Sixteen years.

Q. How long have you been engaged as real estate broker? A. With the firm of Ortell & Lucas, about three years; or three and a half years.

Q. Are you a broker or an agent? A. Broker.

Q. What companies do you represent? A. I do business through Davis & Dorlon, one of the largest concerns in New York city.

Q. You are a representative, then, of a New York brokerage house? A. Yes.

Q. In that capacity, you represent whatever companies they represent? A. Yes.

Q. Which, I presume, is most of the leading companies? A. Yes, sir.

Q. Did you hear the testimony of the witness who just preceded you? A. I heard some of it.

Q. Did you hear his testimony in regard to the advance of fire insurance rates in Freeport during the past two years? A. Yes, sir.

Q. Now, give the Committee your full experience and observation with reference to the rates on fire insurance risks in Freeport since you first became a broker? A. Well, the rate went up on dwellings, went up from forty cents to fifty cents, for three years.

Q. You mean three years ago? A. No, the last two.

Chairman MERRITT: You mean on the three year period?

The WITNESS: Yes, the three year is forty cents, and twenty cents for one year. On the stores the rate was eighty cents for one year, now it is $1.50.

Q. Is that a general advance on mercantile properties, or is that an advance on some particular property? A. The advance is more on Main street.

Q. Is the advance on all mercantile properties on Main street or specific advances on specific pieces of property? A. All property.

Q. When did this advance on mercantile risks take place? A. Oh, about a year and a half ago, I guess.

Q. Prior to that time, tell us what the rates on residential property and the rates on mercantile property were? A. Forty cents on dwellings. On some stores it was sixty cents, and some was eighty cents and some was a dollar.

Chairman MERRITT: What were the advances on the same property?

The WITNESS: Fifty cents, $1.35 and $1.50.

Q. How long had those rates continuel? A. They continue now.

Q. Now, prior to this advance, how long had the rates which you have mentioned continued? A. Maybe for a year.

Q. And had there been an advance during that year, over the previous year? A. No, sir.

Q. When you first went into the brokerage business, what were the rates in Freeport — seven years ago, that was, wasn't it? A. No, three years ago.

Q. Did you first go into the brokerage business three years ago? A. Yes, three and a half years ago.

Q. Did you know anything about rates before that time? A. Yes, forty cents on dwellings; the rates I give you first off.

Q. And the mercantile rates? A. Sixty cents, eighty cents and one dollar.

Q. How long had those rates continued, if you have any knowledge of it? A. Oh, about a year.

Q. Prior to that time? A. Yes, sir.

Q. What I am getting at is this: When you first went to Freeport, what were the insurance rates, if you recall? A. As I give you first off.

Q. Give it to me again? A. Forty cents on dwellings; sixty cents, eighty cents and a dollar.

Q. That is, when you first went to Freeport? A. Yes, sir.

Q. How long ago was that? A. About sixteen years ago.

Q. How long did those rates continue? A. Until about a year and a half ago.

Q. Then, for about fourteen years those were the rates in Freeport? A. I think it was. I wasn't in business at that time.

Q. As far as your information goes? A. Yes.

Q. And since that time the advances have taken place that you have mentioned? A. Yes, sir.

Q. Now, have you made inquiry of the firm which you represent here in New York as to why these advances were made? A. That is the Exchange ——

Q. Did you make any inquiry of your representatives here in New York? A. No; they send me a policy, and I send it to the people.

Q. Did you ever ask them why the advance was made? A. No, sir.

Q. What is the name of the firm again? A. Davis, Dorlon & Company.

Q. Did you ever inquire of Davis, Dorlon & Company why this remarkable advance of rates had taken place in Freeport? A. They went in the combine.

Q. Who went in? A. Davis & Dorlon.

Q. What combination? A. The New York Exchange.

Q. You mean the Suburban Exchange? A. Yes.

Q. You mean they are brokers, licensed by the Suburban Exchange? A. And they write policies if any one applies to them.

Q. What do you mean by that? A. They are brokers, and write insurance, too.

Q. They write insurance themselves? A. Yes.

Q. They became members of the Suburban Exchange? A. Yes, sir.

Q. And, of course, had to adhere to the rates fixed by the Exchange? A. Yes, sir.

Q. Is that the only reason you know of for the advance? A. That is the only reason I know of.

Q. Did you ever make any inquiry of any of the officers of the Suburban Fire Insurance Exchange why these advances had taken place? A. No, sir.

By Mr. HURRELL:

Q. Do you belong to any local organization out there, Mr. Lucas? A. What do you mean, Board of Trade? I belong to the fire department.

Q. To any local underwriters' association? A. Yes; I joined that last July.

Q. What? A. I joined it last July.

Q. What is the name of that? A. Brokers' Exchange, New York Exchange, it is.

Q. I am asking you if you have a separate agents' organization, separate from the Suburban Fire Insurance Exchange? A. No, I don't think they have any now.

Q. Why did you get your license from the Suburban Exchange? A. Davis & Dorlon told me, "You better get a license out," and I took a license out on their advice.

Q. Haven't you said that the reason you went in and got your license from the Suburban Exchange was because you could not do business successfully without joining that Exchange? A. No, I couldn't get any policies unless I joined the association.

Q. That is, unless you had joined the association you were substantially out of business? A. Yes.

Q. That is true, is it? A. Yes, if I wanted to get policies through the Exchange, I would.

Q. Did you some times take Mr. Kiefer's insurance, for instance, have you written it in three years? A. I wrote it for a year.

Q. When you went to the broker's office—— A. I wasn't a broker that time.

Q. What were you? A. I was writing outside of the combination that time.

Q. You were an agent, weren't you, or broker for outside companies? A. No, sir.

Q. How did you do business? A. Got it through Davis & Dorlon, before they went into the combination.

Q. And you collected the premiums and delivered the policies, didn't you? A. Yes, sir.

Q. And you did that with Mr. Kiefer? A. Yes, sir.

Q. And you say, then, you were writing for companies outside of the combination? A. Yes, I got through Davis & Dorlon them policies.

Q. And did you say to Mr. Kiefer his rate had gone up? A. Yes, sir.

Q. And you would go to him and tell him he would have to cancel one policy, as his rate was too low, and you would give him another at a higher rate, before you went in the Exchange? A. I did cancel one of his policies outside of the combination. They wanted to jump him 25 per cent. I told him the best thing to do was to go in the combination, and he wouldn't have the trouble of getting his policies canceled.

Q. So I understand you to say that companies outside of the combination did that, canceled the policies and advanced the rates? A. Yes.

Q. And because of that you joined the Exchange to keep the rates steady? A. Yes, so there wouldn't be any more trouble with policies.

Q. That is, you would go in the Exchange with a high rate at the beginning, and you would have no cancellation? A. Yes, sir.

Q. Did you have the same experience dealing with other merchants in Freeport? A. With some of them.

Q. What is that? A. With some of them.

Q. As a matter of fact, you say, that as a business policy, and in order to continue to do the business, you finally joined the body of underwriters you belong to? A. Yes, I joined the Exchange, so I could get policies without any trouble.

Q. Would you rather do business in the old way, or in the way you are now? A. In the way now.

Q. You would rather do it in the new way? A. Yes.

Judge BRUCE: Speaking as a broker?

The WITNESS: Yes.

Q. As far as you are concerned, as a broker, you have no complaint to make against the Suburban Exchange? A. No, sir; because you have no trouble with your policies now.

Q. And that is the basis of your opinion; you can do business more easily? A. Yes, sir.

By Chairman MERRITT:

Q. And you get a higher commission, I presume? A. No, sir; a broker only gets ten per cent.

Q. Of the premium? A. Yes.

Q. When the rate goes up you get more money? A. Yes, sir.

Q. And you are in favor of raising the rate? A. No; I think it is a good idea; you won't have any trouble.

Q. What? A. You won't have any trouble with your policies then.

Q. When the rates are higher? A. When you get in the company you have no trouble.

Q. When don't you have any trouble? A. When you are in the trust you are all right then; in the combine, you are all right.

Q. When you are in the combination you are all right? A. Yes, you don't have any policies canceled then.

Q. The company treats you all right if you are in the combination; is that right? A. Yes, different companies.

Assemblyman COLNE: More money, anl less trouble, is that it?

The WITNESS: Yes.

Senator WAGNER: And the policy holder is the fellow that has to make good for it?

The WITNESS: Of course they have to make good for it; they have to pay more money for a policy.

By Judge BRUCE:

Q. Has there been an advance on the properties outside of the corporate limits of Freeport? A. Yes, sir.

Q. Give us some illustration. A. Where they haven't any fire protection, they used to pay sixty cents, now it is seventy-five cents to a dollar where they have no fire protection.

Q. When did this advance take place? A. About a year and a half ago.

Q. Prior to this advance in rates, both on properties in Freeport, in the limits of Freeport, and outside, had there been any large fires or losses in Freeport? A. No, not so many.

Q. Had there been any large ones? A. I think there was one about a year ago, about $2,500.

Q. Do you know of any others, within the past two, three or four years? A. Yes, I know of some of forty dollars, thirty dollars and twenty-five dollars.

Q. Do you know of any five hundred dollars, outside of the one you have mentioned, within the last three or four years? A. Yes, sir; there was one last Sunday night, about $2,000.

Q. Now you have mentioned a $2,500 and a $2,000 one? A. Yes.

Q. Do you know of any others over $500, say, in the past four or five years? A. No, sir.

Q. Did this advance in rates take place prior to these two fires you have mentioned, the $2,500 and the $2,000 one? A. Yes; these fires were lately.

Q. Then the advance of rates were not due, or did not directly follow, large losses that had taken place in either Freeport or nearby territory? A. No.

By Assemblyman Foley:

Q. How much is the total amount of premiums collected in that corporation? A. I cannot tell you.

Q. How much do you collect? A. I can't tell you without my book. There are 5,000 people there.

By Chairman Merritt:

Q. Are you a volunteer fireman? A. Yes, sir.

Q. What sort of a department have you got there? A. We have got three hose wagons, a hook and ladder, and an engine; and we have about 125 members, I think.

Senator Wagner: Do they get any compensation?

The Witness: Yes, I think they get two per cent. from foreign companies.

By Senator WAGNER:

Q. That is, the department; is it a village? A. It is a village; yes, incorporated.

Q. Does the village pay the men anything at all? A. No, sir; they only pay for the horses.

By Chairman MERRITT:

Q. They don't pay the engineer? A. No, sir; they are all volunteers.

Q. Is it a pretty good department? A. Yes, sir.

Q. What do you belong to, hose company, or what? A. Hose company.

Q. Have you got a fire alarm system in the town? A. Yes, sir, by whistles.

Q. Have you got fire alarm boxes? A. No, sir; we use the telephone. Each telephone is numbered, and the fire office number is 27; and they call Central for No. 27.

Q. These local departments depend a good deal for their efficiency on the interest they take in them. You think you have got a pretty good department? A. Yes, sir. They get to a fire in about three or four minutes after the whistle blows.

Q. Do they do anything at all in the way of inspecting property, through the department or otherwise? A. What do you mean?

Q. Well, as to — take your store properties — as to the condition of the basement and chimneys and that sort of thing? A. No. Some times when I take insurance I go around to see if everything is all right.

Q. The department does not? A. No.

Q. Nor the village? A. No, they haven't any building inspectors.

Q. There are no building inspectors or fire marshals? A. No, sir. They ain't got any building inspectors there.

By Mr. HURRELL:

Q. Do you know, Mr. Lucas, as an insurance man, whether you can write insurance in other companies in property in Freeport, other companies than those who belong to the Suburban Exchange? A. I can't now.

Q. As an insurance man, you say there are no companies doing business in the suburban field except those in the combination? A. You can write outside.

Q. I am speaking of companies; I am asking if a property holder in Freeport can get insurance in a stock company outside of the members of the Suburban Exchange? A. Yes, but I guess nobody in Freeport writes any now.

Q. You say there are no agents there for those companies? A. No, sir.

Q. You say that there are companies that would like to do it, but they lack agents; is that it? A. I don't know. I know there are no agents in Freeport now.

Q. Your knowledge only extends to agents, does it? A. I don't know anything about it.

Q. You don't know whether property holders in Freeport can get their insurance or not? A. I guess they might, if they go somewheres else to get it.

Senator WAGNER: How far would they have to go?

The WITNESS: I don't know.

By Judge BRUCE:

Q. What companies are there that are writing insurance in Freeport, other than those that belong to the Suburban Fire Insurance Exchange? A. I think the Law, Union and Crown, and the Shawnee.

Q. The last one you gave is clear out, is it not? A. I don't know. I know I used to write for it two years and a half ago; I don't know whether they are out of business.

Q. Those are the only ones you know of? A. Yes.

By Mr. HURRELL:

Q. Is there an agent of the Law, Union and Crown in Freeport now? A. Yes, sir.

Q. I am asking is there an agent of the Law, Union and Crown in Freeport now? A. No, they ain't got any agents.

Q. That is the only company, and it is outside of the combination, that lacks an agent? A. Yes, I think so.

Q. And they are outside of Freeport, too? A. Yes, sir.

Mr. HURRELL: That is all.
Judge BRUCE: Mr. Reed ?

S. A. REED, called and sworn as a witness, testified as follows:

Examination by Judge BRUCE:

Q. Where do you reside? A. New York, Manhattan.

Q. What is your business? A. I am the secretary and manager of the Suburban Insurance Exchange.

Q. Will you please tell the Committee what the Suburban Insurance Exchange is, when it was organized, who are its members, what is its purpose, what it does, and how it does it? A. The answer to that question is best given in the manual of the Suburban Fire Insurance Exchange, which has been offered, or is now offered in evidence, and copies of which ——

Q. Has been offered in evidence, or is? A. I am prepared to offer it.

Q. I don't want to offer the whole manual; no, I don't want to put that on the record. Have you the agreement? A. The agreement is the first part of it.

Q. Have you that separate? A. No, but I can read a portion of it, if you desire. The agreement is pages — it is in the beginning of the book.

Judge BRUCE: I offer in evidence the agreement; also the general by-laws and agency rules, which are to be found on pages 13 to 30.

(Received in evidence and marked Exhibit D-1.)

Q. Now, will you briefly summarize what is contained in what has been just now introduced in evidence, first, with regard to the organization of the Exchange? A. The object of the Suburban Fire Insurance Exchange is to promote harmony among its members, to determine adequate and just rates of premium, or fire, tornado and cyclone insurance; to encourage the economical conducting of the business; the prevention and extinguishing of fires; to promote an equitable adjustment of losses; the ascertainment of proper and safe methods of construction and occupation of build-

ings; and the collection, preservation and dissemination of information valuable to the underwriter and to the property owner within the territory of its jurisdiction.

Q. And that territory, broadly speaking, embraces what? A. It embraces Westchester county, Putnam county, Rockland county, Richmond county, and the portion of the Borough of the Bronx east of the Bronx river; Westchester county, or course, includes Yonkers. It includes, also, all of Long Island outside of the Borough of Brooklyn.

Q. And who are eligible to membership in the Exchange? A. All fire insurance companies authorized to do business in the territory mentioned, in the State of New York; that is to say, in the territory mentioned in the article defining the territory of the Exchange I have just stated; all fire insurance companies authorized to do business in that territory mentioned; the managers and agents of out-of-town companies having offices in the territory of this Exchange are eligible to membership in this Exchange under such regulations as may be prescribed by the by-laws, and may become such on signing this agreement.

Q. Does that include fire insurance brokers? A. No, sir.

Q. How many members has the Exchange at present? A. The Exchange has followed the plan of counting only by companies, and the membership is between 135 and 140 companies.

Q. Those are found on pages 7, 8 and 9 of the manual? A. Yes, sir.

Q. Which is already in evidence? A. Corrected up to the date in which this book was, the last edition, I think a few weeks ago.

Q. What proportionate part of the fire insurance companies writing risks within jurisdiction of this Exchange do your members include? A. I cannot say accurately, without knowing the exact number of companies reporting to the insurance department. Judging from what has been stated by others before this Committee who are competent to report, I should say that the number of companies admitted to do business in New York State outside of the Surburban Fire Insurance Exchange is, I should say, about 30. 30 to 40. I have not had investigated the totals of companies. Every month some new company is admitted to the State, so I do not know the figures exactly.

By Chairman Merritt:

Q. They have to file an application to be admitted to your Exchange in order to be included in your list of members? A. We immediately invite every company who enters the State to join the Surburban Fire Insurance Exchange. They can be admitted or not if they choose.

By Judge Bruce:

Q. And how many companies, outside of your Exchange, are writing risks in your territory in which the Exchange is doing business, in your judgment? A. All have the right to write within our territory.

Q. Yes. I understand that, but how many, in your judgement, are writing risks within the territory included in the jurisdiction of your Exchange, who are not members of your Exchange? A. Well, sir, that would only be by personal conjecture, if I should give it. I have no direct method of knowing who is writing and who is not writing. I know of a certain number. I have positive knowledge of a certain number who are writing, and my belief is that nearly all writing more or less. Some companies may take a policy occasionally, and some may be gradually, or very recently, possibly, have gone in and taken quite freely without it having become generally known.

Q. Well, how many companies, would you say, are writing risks, in your judgment, within the territory of the Surburban Fire Insurance Exchange, who are not members of the Exchange? A. Actively?

Q. Actively. A. I should say from 10 to 15.

Q. What proportionate part of the risks written within the territory over which your Exchange has jurisdiction are carried by companies who are members of the Exchange? A. You mean in value?

Q. Yes. A. I have no direct method of ascertaining. I have had a great deal of curiosity, naturally, to know that very figure, and have made a great many guesses, but I am entirely unable to do more than make an approximate guess.

Q. And what would be your approximate guess based upon your information? A. Of the amount of premium written now?

Q. Yes. A. By companies outside of the Surburban Fire Insurance Exchange?

Q. No. By amount of premiums written now by companies who are members of the Surburban Fire Insurance Exchange? A. I should say, that certainly three-quarters.

Q. That you are carrying three-quarters of the insurance? A. Yes, sir.

Q. Don't you think you are carrying more than that? A. I do not know.

Q. Would not your best judgment be that you were carrying ninety per cent? A. I think it quite probable; yes, sir.

By Chairman MERRITT:

Q. And surely seventy-five per cent? A. Yes, sir; that is my personal conjecture.

By Judge BRUCE:

Q. Now, your Exchange is a rate-making body? A. Yes, sir; for its members.

Q. And by whom are those rates made? A. The rates are made by a committee which has that special subject in charge.

Q. When was the Exchange organized? A. December 3, 1907.

Q. Was there a body similar in character prior to the organization of the present Exchange? A. There had been a body similar in territory and authority to the Surburban Fire Insurance Exchange, which went out of existence in 1899 or 1900.

Q. Well, then, from 1900 down to 1907, there had been open competition, had there? A. Yes, sir.

Q. How long had this prior organization been in existence? A. About four years; possibly five.

Q. And prior to that time was the field open to competition? A. Such is my recollection.

Q. Have you a system of licensing all brokers? A. We have a system by which certificates are granted to brokers, that they have signed; a certain pledge for brokers.

Q. Where are those pledges? Are they to be found in the manual? A. The formal pledge is to be found in the manual; yes; and in the by-laws which have been presented in evidence.

Q. And this form of pledge — is it similar to the form of pledge required by the New York Insurance Exchange? A. Identical; with the substitution of names.

Q. Is the organization of your Exchange, methods of operation, methods of fixing rates, licensing of brokers, admission of members, similar in all respects to the New York Fire Insurance Exchange, practically? A. In most particulars, that is true.

Q. Well, now, will you tell me in what particulars your Exchange, in its organization or method of operation differs from the New York Fire Insurance Exchange. By that process of elimination we will save, perhaps, a great deal of time? A. Well, in the first place our membership is a company membership, whereas, in the New York Fire Insurance Exchange votes go by local companies, companies whose head offices are in New York city, and general agents of companies or groups of companies not having a head office in New York city, vote as a unit. Our territory being outside of New York city, is made very largely to encourage and develop the agency system.

Q. You mean as opposed to the brokerage system? A. Not as opposed to the brokerage system, but as co-operative, in what we consider an equitable and a proper manner with the brokerage system.

Q. Well, now, may I inquire there, in order that it will come along in proper order: What do you do in, order to encourage the agency system? A. In order to encourage the agency system, the agent who is empowered to writ policies for the company binding his company — the qualifications of an agent are defined, and companies who have signed our agreement to appoint none as agents who are not so qualified.

Q. And who determines on those qualifications? A. The qualifications are determined by the rules laid down in the agreement, strictly.

Q. Now, in what other respects does your organization differ from the New York Fire Insurance Exchange? A. The rate of commissions differs.

Q. What commissions are paid under the rules of your Exchange? A. All local agents are limited to a twenty per cent commission, and brokers who have the certificate of our Exchange are entitled to receive, provided they have signed pledge No. 1, five per cent; provided they have signed pledges No. 1 and No. 2, ten per cent.

Q. That is, after they have signed No. 1 and No. 2, they are only permitted to write for companies who are members of the Exchange? A. No, sir; they agree under pledge No. 2, to give preference, to give first choice to companies who are members of the Fire Insurance Exchange. They are not prohibited in writing in companies that are not members.

Q. Can they write in companies who are not members at a lower rate than is fixed by the Exchange? A. Under pledge No. 2 they agree to maintain the rates of the Surburban Fire Insurance Exchange.

Q. Now, do you recall any other respects in which you differ? A. No important ones; excepting, of course, that the territory in which our Exchange operates is a very different territory than which the New York Fire Insurance Exchange operates, and it is largely a territory of unprotected frame dwellings and frame constructed towns and villages with highly combustible blocks under a moderate degree, or varying degree, of fire protection.

Q. Now, this organization that existed prior to the formation of your present organization — what was it called? A. The Surburban Underwriters Association.

Q. And when did it go out of existence? A. My recollection is it went out of existence in 1899 or 1900.

Q. And why? A. My recollection is that companies resigned. One company resigned; the second company resigned and the third company resigned, and in a short time the membership broke out in that way.

Q. And were they a rate-making body? A. Yes, sir.

Q. The present members of your Exchange are found on page 10 of the manual, are they not; and the committees on page 11 and 12? A. No. List of members?

Q. Did I say "members?" I mean officers. I will change that to officers? A. A list of present officers and committees are found on page 10.

Q. Pages 10, 11 and 12? A. Page 10; Roman 10.

Q. Roman 10, 11 and 12, including the committees? A. Yes.

Judge Bruce: Those I offer in evidence.

Q. The president is Mr. Frederick W. Day, who is assistant manager of the Royal Insurance Company? A. Yes, sir.

Q. And the vice-president and treasurer is Mr. Joseph McCurdy of the Hanover Fire Insurance Company? A. Yes, sir.

Q. And the secretary and manager is yourself? A. Yes, sir.

Q. How did your organization make up its first schedule of rates? A. They were made by a committee.

Q. From what data? A. I do not know of my own knowledge.

Q. Do you know who was chairman of the committee at that time? A. I do not know, but I can ascertain.

Q. Was it the present chairman? A. No; our committees rotate.

Q. Well, I presume these rates were made in a fair and equitable manner? A. My belief is that that is the case.

Q. But you do not know what that matter was? A. I do not know positively. I do not know of my own knowledge. I made a report on the methods of rate making of this Exchange, which was ——

Q. (Interrupting) Well, I will ask you this. What are the methods of rate making of this Exchange? A. The risks rated by this Exchange may be divided into four classes:

First, private dwellings and private stables, estimated number of risks 100,000; estimated percentage of entire premium forty-five per cent.

Second, stores and dwellings and apartments, 45,000, estimated number of risks; estimated percentage of entire premium thirty per cent.

By Mr. HURRELL:

Q. Pardon me, Mr. Reade, what does that mean? Estimated percentage of entire premum? A. The estimated percentage of the entire premium receipts.

Q. Of the companies in the Exchange? A. Of the companies in the Surburban Fire Insurance Exchange for the territory of the Surburban Fire Insurance Exchange. In other words, the premium receipts reported by the companies last year was a little over 3,000,000 for the entire territory covered by the Suburban Fire Insurance Exchange.

By Judge BRUCE:

Q. And what were the losses paid? A. I do not know, sir.

Q. Can't you tell me approximately? A. No, sir.

Q. Have you no data from which we could ascertain? A. No; my organization has no data.

Q. Well, why does your organization ascertain the amount of premiums received for the entire territory upon its risks and does not have all the members report the amount of losses paid within the territory covered? A. Our purpose of ascertaining the premiums is in order to distribute the cost of our Exchange equitably among our companies.

Q. Wouldn't it be a matter of interest to the Exchange, as well as valuable data, to know what the amount of losses the various members of the Exchange have had within the territory during the previous year; either fiscal or calendar year? A. It would be a matter of interest; very interesting.

Q. But you never have done that? A. No, sir.

Q. Just continue. A. No. 3, schools, churches, institutions, etc., summer hotels, clubs, lumber yards, small shops and small manufacturing risks, estimated number of risks, 4,700; estimated percentage of entire premium fifteen per cent.

No. 4, large manufacturing risks, estimated number of risks 300; estimated percentage of entire premium, ten per cent.

Most of the above risks are of frame construction, and perhaps eighty per cent are under more or less effective protection of small town or village fire departments and water works.

In rating the first and second classes, dwellings, and stores and dwellings, aggregating probably seventy-five per cent of the total premium, probably over ninety-five per cent of the total number of risks, this Exchange has used a minimum of classification system which applies to detached risks, and has also added exposure charges when in frame rows, there being no satisfactory exposure rule for the varying conditions in frame rows or blocks in towns of varying degree of fire protection, the rate committee has tried if possible to develop and perfect such a system for calculation of exposure charges and made such charges on each risk, by a careful study of the surroundings, assisted by inspectors' reports; arriving thus at an estimate based on their experience as underwriters or on their individual knowledge of the experience records of the companies they represent, and it is believed that a closer and correct and more equitable and fair cost estimate of the frame row exposure charge

has resulted than would have been obtained by the use of any system at present in vogue for frame row exposure calcution. I will add that that is now and continuously, a subject of experiment. The aim of our organization is to remove, as far as possible the empiric element. This may be especially noted in such cases as that of the frame blocks in Rockaway Beach and similar locations, where the existing conditions are so complicated as to make it exceedingly difficult, if not impracticable, to carry out the theory of schedule rating. In rating exposure charges, our rate committee has always made deductions where exposures have been reduced by the erection of fire walls or the closing of openings in the wall or effective fire protection. The system of gradation of classs 1 and 2, furnished by our minimum classification rule, provided a method of adjustment of rate to hazard which is a simple form of schedule rating for such classes. Thus, under our system of classification, risks are graded according to the main elements of construction, brick or frame, fireproof or semi-fireproof, or according to public fire protection.

We grade dwellings according to occupancy, into private dwellings, apartments or flats, summer dwellings and private boarding houses. This system of gradation differentiates between risks according to hazard as closely as the circumstances will permit in such classes.

Class 3: In this case wherever the risk has, in the judgment of the rate committee, been amenable to schedule rating, some approved form of schedule has been used.

Class 4, large manufacturing risks: Most risks of this class have been rated by schedule, using as far as possible, the schedules of the New York Fire Insurance Exchange with basis rates modified in accordance with the condition or location. Many of these were surveyed and graded by the former organization before this Exchange was established, and after re-inspection, the rates of that organization have been in many cases continued. In these schedule rated risks, the usual opportunities exist for securing reduction by making schedule improvements. The schedules utilized the usual elements in making up the final rate, namely, construction area, height, hazard or occupancy, subdivision of risk, private and public fire protection.

It is the opinion of the writer, that the rating methods of this Exchange have produced a closer adjustment of rate to actual fire cost, having a very moderate percentage margin for expense or profit, than is usual in sections so difficult to rate as our peculiar territory, and it is believed that the few companies who have undertaken to insure in our territory for a reasonable period, on a large enough scale and establish an average materially less than the rates calculated by our rate committee, have found the rate unprofitable.

The insurance risks in our territory is mainly in small policies with the average premium of perhaps $20, and not over $25 per year. In other words, it is a very small retail business. In the case of the average private dwelling, which according to this report constitutes forty-five per cent of our business, assuming the value of insurance at about $5,000, and the premium at from 20 to 30 cents, would be an annual premium of $7.50. In other words, a very large part of our policies are sold for $7.50 a year.

It is evident that there is a very sharp limit to the expense to which companies are able to go in the matter of inspection, when it is writing on risks with such very small premiums, without the necessity of assessing such cost on the rate. Nevertheless, this Exchange is constantly making efforts to improve and perfect its rating system.

Q. Now, Mr. Reed, you seem to be somewhat familiar with the rate-making operations of the Exchange. Can you tell me how they made up their first schedules when the organization was first formed? A. My understanding is, that they made up the table of basis rates, minimum rates, from the aggregate, and combined and compared experience of the individuals forming the rate committee, who were in communication with the other members of the Exchange.

Q. Then, we have had before them the experience of the companies which had been operating in the field, showing what losses they had sustained and the ratio of losses to premiums? A. I understand that they had the knowledge of those general figures in their minds at the time that they conferred and determined rates.

Q. Do you mean that it was a matter of judgment and experience, or that they formed from actual data which was before the com-

mittee? A. I believe that my understanding has been that they had individual access to data, figures, classifications, which, to a more or less considerable extent, guided them, actuated them, in determining their final judgment.

Q. Well, it was really a matter of judgment, when it came down to the fixing of the rates by the committee, was it not, based upon their general experience in the field? A. General experience and aided by statistics.

Q. Which were not before the committee? A. I do not know.

Q. And to which the various members of the committee had access? A. I do not know to what extent the actual statistics were before the committee.

Q. My object is to ascertain whether this base rate is made up from schedule ratings, or whether it is made up in the manner in which the New York Fire Insurance Exchange makes it up, from the ideal risk which they have in mind? A. Yes, sir.

Q. Well, now, when the first rate was made, do you know whether that was an advance over the rates then being charged by the various companies operating in the field? A. I believe that, as a general thing, it was not in every case.

Q. Well, have you any idea as to the percentage of that advance? A. I have a general guess, one might say, but it is really of very little use to go on, for the reason that no rates were made. The companies total premium income was not reported and there was no record made of losses and there were no figures during the interval of seven years on which anyone could base an accurate or exact estimate.

Q. But there was a general advance in the rates, was there? A. I so believe; from estimate only.

By Mr. HURRELL:

Q. You say the advance was very moderate, Mr. Reed? A. I so believe. It is my understanding.

Q. You have heard Mr. Kiefer testify this morning as to his advance in Freeport, Long Island? A. Yes, sir.

Q. And also Mr. Lucas? A. Yes, sir.

Q. Now, are you prepared to say whether their statement, that, at least three items of business property in Freeport were increased

100 per cent, is true or not? A. I should prefer to refer to the records in my office with regard to Freeport, but I should be very much surprised to find that there had been anything like such an advance on business generally in Freeport.

Q. Well, have you any records with you at all as to the advance in rates in the suburban territory? A. No; not as to the advance in rates. As to the present rates I have. I do not know as to the advance in rates.

Q. If you had the present rates with you, have you any knowledge from which you could inform the committee as to what the old rate was? A. No, sir; they varied with individual companies. Each company would make it — charge whatever it choose.

Q. Have you any data in your office that would show what the advance in rates has been since the Suburban Exchange took charge of the territory? A. No. I should like very much to know those figures but I haven't it.

Q. The Committee will be left, as far as that is concerned, to bringing in the individuals from the territory and having them here state what the old rate was, and finding from the Exchange what the new rate was in order to get at the facts, is that true? A. Yes; that will have to be. Of course, that might be very misleading, because the individual cases might not represent an average.

Q. But then the individual cases would represent themselves and you could give some reason why the rates were advanced? A. Yes.

Q. You take the case of Richmond Hill, New York, for instance. You are acquainted with that locality? A. Yes, sir.

Q. I have here a letter which was oringinally sent to the Superintendent of Insurance and turned over to this Committee and I will say to the Committee that the secretary of this association was unable to be here to-day and requested me to present the letter. It is as follows:

"At a recent meeting of our association, the subject of fire insurance rates on residential property in our section was considered, and I was instructed to write you on the subject. Morris Park is a suburban section of New York city, being situated in the fourth ward of the borough of Queens. The residences in this section are practically all detached frame buildings. Our fire protection is good. The paid city department having been substituted a few years ago

for the old volunteer department. Nothwithstanding this better fire protection, however, the insurance rates on this class of dwellings has been recently raised from the rate of 40 cents per hundred for three years to the rate of 50 cents. This is true, also, we understand, as respects all the territory adjacent to New York city, having a certain degree of fire protection. We understand that these rates are fixed by the so-called Surburban Exchange which is controlled by the insurance companies themselves. We can see no justification for this change in rates as applied to a section like ours, where fire protection is better than it was under the lower rates. In addition to this increase in rates, we are now also obliged to accept in all policies covering this class of property the so-called eighty per cent clause, which means that under some circumstances, some proportion of the fire loss, though fully covered by the amount of insurance on which the insured has paid the premium, must fall upon the insured. We claim that the eighty per cent clause works an injustice in some cases, and that the insured should have the benefit in every instance, of the full amount of insurance paid for by him. To this end we believe the eighty per cent clause should be eliminated, and with this clause eliminated, the rates in our section should be no higher than they would have been with the clause concluded.

Kindly inform me whether this is a matter which you can take up with a view of remedying the conditions complained of."

Now, do you know, Mr. Reed, whether it is true that the rates upon the residential property in Morris Park have been advanced from 40 to 50 cents in three years? A. I do not know. I know that the rates made by the companies in our Exchange, under which, and as far as they are concerned, they are obliged by their agreement to live up to, is 50 cents for three years. That is 20 cents for one year. That is to say, dwellings, the term rate is 2 1-2, say, 20 cents for one year. 2 1-2 times for 3 years is 50 cents for three years, and dwelling property which is customarily written for three years, the common quotation is 50 cents for three, which means 20 for one.

Q. So the complaint of this association is correct, as to the facts? A. As to the present rate. Now, his statement that the rate previous to the forming of this Exchange was 40 cents, is a contribution

to the very matter which you were trying to bring out a short time ago, which I would like as a comparison. On his own statement the previous rate was 40 cents for three years, and now it is 50 cents, an advance of twenty-five per cent on frame protected dwellings, and he also states that our companies require the eighty per cent co-insurance clause. Of course, he is wrong in his statement of the eighty per cent co-insurance clause. If he carries eighty per cent he gets paid for every loss, the amount of it. Furthermore, on frame dwellings, the eighty per cent co-insurance clause is anything but a hardship. The most prudent householder carries at least eighty per cent on a frame dwelling, so that there is probably very little, if any, change.

The statement of the tweny-five per cent advance by the complainant in this case is true, assuming his figures; assuming his statement of his former rate. I will say that the rate he quoted is the rate made also for similar buildings by the companies constituting the New York Fire Insurance Exchange, where the protection is vastly greater, or far greater than it is in the section named; in other words, where the protection is that of the New York fire department.

Q. That is, you mean that the rate paid on dwelling property in Richmond Hill, New York —— A. Is the same as it is in Brooklyn.

Q. Is the same as paid under the jurisdiction of the New York Fire Insurance Exchange? A. The same as it is in Brooklyn; and has been for many years.

Q. Do you know specifically why the rate upon this class of property was advanced from forty to fifty cents by the companies? A. I believe that understanding is that the companies found the former rate unprofitable.

Q. Do you know whether there was such a classification kept by all companies in the Exchange that this could be figured as a mathematical proposition, or whether it was figured as a guess? A. Neither; neither as a guess nor as a mathematical proposition.

Q. Some place between the two? A. Yes, sir.

Q. Is it true, as Mr. Lucas said, that the same advance has taken place in Freeport on dwelling property? A. Assuming that forty cents was the current rate before the formation of the Suburban

Fire Insurance Exchange, then the statement, that, members of the Suburban Fire Insurance Exchange have agreed not to write at a lower rate than fifty cents for three years, is correct, and that would involve an advance by those companies of twenty-five per cent.

Q. Now, the same fifty for three for dwelling business maintains all through Surburban Exchange territory? A. Yes.

Q. And do the mercantile risks in each section of the territory differ in rate? A. Yes, sir; in this particular only on the question of exposure. A similar risk unexposed under village or town fire protection of a certain standard rate the same, no discrimination, unless there are some individual hazards in the risks. When exposure enters into the problem the condition immediately changes.

Q. Referring again to this letter, concerning the eighty per cent clause, I want to ask you is it a rule of the Suburban Exchange that that clause must be carried on household furniture under $25; what is the rule? A. The same rule as in the New York Fire Insurance Exchange.

Q. That property under $2,500 does not have to carry it? A. Exempted.

Q. Is there any attempt to complete by classification which you have indicated in this report on systems of ratings by keeping account of the losses in the various classes? A. Not as yet.

Q. I note that you have this statement in this typewritten circular or letter: "The total number of large manufacturing plants in our territory is comparatively small, not exceeding 300. They may be roughly classified as follows: Woodworks, planing mills, etc., 40; brick, tile, terra cotta, etc., 48; metal workers, 35; electric light and power stations, and car barns, 24."

Then follows a list:

"In rating this last clause we have followed the form of schedule used all over the country for electrical risks."

Then follows another classification:

"Breweries, chemical works, plaster, cement and pottery, ice factories, paint, oil and varnish; silk mills; classes less than five as follows."

And then follows a variety of other lines of business. You say that the classification is not complete. Do you know whether it is

the intention of the managers of the Exchange to complete that classification so that they can find out whether they are taking at too high a rate of premium the risks in a specific class? A. I don't know. The figures on manufacturing risks would obvously for any class be entirely too small in our territory to be of any value in establishing the average. For example, in several of these classes I have mentioned, to claim that any one loss would invalidate any conclusions from those figures in our territory, it would invalidate it, so that we would be obliged in order to make our figures of any value at all to have them included in the figures of a larger territory.

Q. Do you know whether the companies belonging to the Exchange keep a classification in which they do get figures from the whole territory in which they do business? A. My belief is, that as a general thing they do.

Q. Do you know why they do it? A. I believe it is done with the hope that the results may be of some guide to their business, to the conduct of their business.

Q. That is, that part of that conduct can be determined, whether rates of different classes are high enough? A. Exactly.

Q. Now, I think this question may have been asked you before, but have you seen any statistics regarding this vast amount of residential property in the surburban district that would be an answer in justification of this advance in rates? A. No; not personally.

Q. Do you believe your companies have it? A. I think it quite probable that they have figures which would be in some degree a contribution to the formation of a just and equitable conclusion on that subject.

Q. Now, Mr. Reed, it may involve some difficulty to the Committee, it apparently must, I think, if the evidence of every citizen were true, they must take it as a fact that there has been an advance of twenty-five per cent in the rates of residence property in the Suburban Exchange, and I ask you, if you will, in order to satisfy their minds, that this has been a justifiable advance, to produce statistics showing that the companies were losing money at the old rate of forty cents; will you endeavor to do that and present the figures here next week sometime? A. It is very difficult to make such a promise; I have no authority whatever——

Q. Will you tell your companies that the Committee and its counsel are interested in just why these rates were advanced? A. Yes; let me understand. I am asked to produce, if possible, statistics bearing upon the subject of the advance in rates by companies in the Surburban Fire Insurance Exchange, or by all companies?

Q. I will not seek to increase your labors by including figures upon all mercantile risks, but at the present time the Committee is not informed as to why these rates were advanced, and it is dealing with a close combination that advanced the rates. The situaton is that they have nothing upon which to base a judgment whether the advance in rates is justified or not, and I am asking if you will produce the figures upon one class of property, so that the Committee can form a conclusion whether the company were justified in advancing rates or not? A. Let me narrow this down a little if possible. Dwellings is a wide class. Dwellings may include stores and dwellings, buildings with stores on the grade floor and dwellings above. It may include tenement houses, apartments; it may include the elaborate and expensive residential property of multi-millionaires and the small cottage of a suburbanite, so that I would like to know whether——

Q. Pardon me. I will ask you are all those classes that you have mentioned rated on this forty cent rate? A. No; they vary.

Q. I am asking for the property that advanced from forty to fifty cents; that is a well-defined, clean-cut classification with all the companies, is it not, Mr. Reed? A. Yes.

By Judge Bruce:

Q. This advance was made at the time the first schedules were formed? A. It was made soon after the establishment of the Suburban Fire Insurance Exchange.

Q. And who was the chairman of the rate-making committee at that time? A. I would not like to trust my memory; I can ascertain.

Q. That is about three years ago? A. Yes.

Q. Was it the present chairman, Mr. Perkins? A. No.

Q. How long has he been chairman? A. He has been chairman for about six months; a little over six months.

Q. Who preceded him? A. Mr. Frederick W. Day.

Q. How long was Mr. Day chairman of the rate committee? A. My recollection is that he was chairman for six months. I would be very reluctant to give these facts without reference to my record.

Q. Does the chairmanship of the committee rotate and each one serve for six months? A. The question of rotation of the chairmanship of the rating committee is a matter largely of custom and courtesy; it need not necessarily rotate; the membership committee does rotate.

Q. Do you recall whether any of the present members of that committee whose names are found on page 12 of the manual were members at the time the rates were first established, and this advance was made? A. I believe not.

Q. Will you let us know, Mr. Reed, who composed the committee on rates at the time the rates were first made and schedules fixed? A. The time the rates were originally made or the time in which the present rate of fifty cents for three years on dwellings was made?

Q. Each, if you will? A. Yes.

By Mr. Hurrell:

Q. By way of explanation that this is not a frivolous matter that I am asking you, I will say that complaints like this come to the Committee, for instance; this complainant expects to appear before the Committee. He states as follows; and I will ask you to make a note of this and report to the Committee on it: "I own about ninety-three bungalows at Rockaway Beach, which is in the fifth ward, borough of Queens. Five years ago I had insurance on these buildings at the rate of one per cent for three years. This is a matter of record. The rate at present is three per cent for one year, or nine times the amount it used to be. This is also a matter of record. The only excuse the agent gives us is that it is because the Insurance Trust started a Suburban Exchange, and there being no competition they fixed the rate arbitrarily. Two of the largest insurance agents of New York city told me so. I might remark here that when the rate was one per cent for three years there was only a very incompetent volunteer fire department there, but when the new rate was

promulgated there was and is now an effective fire department maintained by the city, and the losses at Rockaway Beach for the past five years have been only trifling. The president of the Suburban Exchange called on me at Rockaway Beach last spring, and admitted that the rates were extortionate and promised to do what he could to reduce them, but I have heard nothing from him. I think those facts tend to show the existence of a gentleman's agreement or rate committee." He complained further, but that was the gist of it. I presume the bungalows at Rockaway Beach are classed as a more hazardous risk than the ordinary dwelling house? A. The proposition in Rockaway Beach is almost entirely an exposure, a conflagration proposition; Rockaway Beach, through anyone familiar with that territory, is daily and hourly subject to a sweeping conflagration, a vast accumulation of closely-adjoining wooden buildings, some of very large size; and with a high wind on a night with the snow deep in the streets and with the thermometer down near zero, the possibilities of the fire department there being of any special importance, in case of some accident, to anyone of those buildings, is such that the companies are constantly in apprehension in regard to that section.

By Chairman Merritt:

Q. Have they had pretty bad luck there? A. I do not have in mind their experience in the past in that particular section, but on similar sections they have had very heavy losses.

By Assemblyman Colne:

Q. Is that condition more so now than when the one per cent was in force? A. To some extent, but not entirely; there has not been any very substantial increase in the hazard since that time.

By Assemblyman Foley:

Q. What class would that be in? A. The bungalows individually, if they were not involved in this proposition of conflagration, would be in the fifty-cent class of frame dwellings, protected frame dwellings, two-family dwellings.

By Chairman MERRITT:

Q. There has been a great change generally in the character of the communities of Long Island within your jurisdiction within the last four or five years, hasn't there? A. Well, there has been possibly in the last four or five years; yes.

Q. There has been a very considerable increase in the value of property down there? A. Yes.

Q. Does the rate-making power in your organization, along with the other things which it takes into consideration in forming its judgment, consider what might be termed the tariff that the business will bear; does the increase in the real estate values bear any relation at all to the increase in rates? A. I do not think it has had the slightest thing to do with it. The rates made on frame dwellings by members of our Exchange for the companies constituting that Exchange were made to apply to not only Long Island, but to Westchester county and Richmond county, the entire territory of the Suburban Fire Insurance Exchange.

Q. And those values have grown tremendously down there along with the growth of the community? A. Values have, but the rates of insurance, the percentage charged on those values has borne no reference whatever to the question of real estate values.

Q. Would that have any relation to the cost of conducting the business; it would be reflected somewhat naturally, I would suppose, in the reduction of rates? A. You mean that it would be more economical to conduct business on a large scale?

Q. Yes. A. Possibly in a small degree.

Q. The fact that the increase in rates has come along with the increase in value has raised a query whether or not there was not some relation between the two? A. Purely an accident.

Q. Simply a coincidence? A. Simply a coincidence. The fact is that the increase has been a comparison between a rate war condition and a condition of organization.

Q. Let me ask you this question, Mr. Reed. You regard insurance as a commodity, don't you? A. That is a legal question which I have not made up my mind on.

Q. To all practical purposes, from a practical business standpoint, you are selling something: call it a contract or what you like? A. We are selling a contract.

Q. On what ground, from the standpoint of the public, do you justify the combination to make and control and enforce rates; or if you do not care to answer that now, consider it, because that is a proposition very much in interest here? A. I consider that the tares made by the Suburban Fire Insurance Exchange for the companies in that Exchange are adjusted very nearly to a point below which a company cannot, over any reasonable period of time, write at a lower rate except at a loss.

Q. I have been wondering — I haven't any opinion as yet about it — but I have been wondering whether perfectly free competition, such as has existed in some times and does, I dare say, in some places now in the country, possibly, not in this State, would result in such a diversity of rates, every company approaching the specific risk with their own standpoint of experience and judgment, whether experience had shown that a condition like that resulted in a condition of the stock companies themselves which was unsafe from the standpoint of the security of the insurer; the natural competition and disposition to take chances would so operate as to produce an insurance condition where the great mass of the insured must inevitably find themselves in a position where their security was in jeopardy; or whether, in order to secure the thing which they take the insurance for, which certainty they do get; to concede the right to the people who sell this contract or commodity to combine not only on the rate, practically on the rate, and combine their experience, really forming what amounts to a combination of the entire capital involved, as well as the method of administration; if that has got to be done of course it is an anomolous thing, as things are done nowadays, that people should be permitted to combine in the selling of something, which is a recognized thing, whether you define it in legal phrase one way or another, without regulation. Now, I have not yet heard enough to satisfy me on that point. If the public has got to give this right in order to be secure, looking at it from that standpoint, why, the experience of the companies ought to be a great guide to that very thing. There must be some justification for a combination such as you represent besides the desire to make money for the companies; otherwise we could not tolerate it; don't you think so? A. I think you have expressed the situation in most excellent manner, and I feel very much in accordance with your statement.

Q. Are the facts within your knowledge of conditions existing precedent to the combination here, or have you access to them which bear upon this very topic? A. I will say this, that during the seven years of absence of an organization in the territory which I represent, which is, of course, small and a comparatively insignificant territory, that those conditions, I think, will be found to have resulted in the withdrawal from the field of a large number of companies.

Q. Their failure? A. No; a withdrawal from undertaking to do business and write business in the territory which I represent.

Q. What do you mean by that, withdrawal; where do they go? A. Discontinue accepting policies covering risks in that territory; they take them elsewhere; they go in the districts in which there is organization, in which it is possible to get paying rates. That business was written largely by a comparatively small number of large companies who expect to be in business for a hundred years — some of them have been in business for a hundred years and expect to be in business for a hundred years to come, perhaps two or three hundred years; in other words, they are companies who are here forever, who are not trying, and who are not depending, upon extorting a small and temporary profit from a small place, but figuring on continuing the system which is reflected in their annual statement, which anyone can examine.

Q. Have you been an agent in your experience, represented companies? A. Not a local agent; I have been a special agent representing companies.

Q. Is it a fact that the companies rest with more security upon the rate which is the combination rate, as the combination of experience, than they would on their own experience and judgment? A. I think that is true; yes, sir.

Q. Of course we do not care, if there is no combination, at what price any company sells its contract, that is nobody's business that I know of; but the company and the people that they do business with, when it comes to the combination proposition, why, the public has got to have reason why any particular business that sells anything should be permitted to combine contrary to the general theory and do their business, take a grocery business, unless there is good reason. Now, there is the question. I do not think the record contains, from the insurance standpoint, any very complete explanation;

I will not say explanation; but justification. A. Well, Mr. Chairman, the subject of fire insurance cannot be considered apart from the constant recognition of the conflagration hazard, which is day and night hanging over the companies of this country. The possibilities to-night, this day, are such as we hesitate to contemplate; hesitate to think of.

Q. Don't like to hear the fire bell? A. Don't like to hear the fire bell, especially at this season. When we recognize the possibilities in New York city in spite of the greatly improved protection and greatly improved construction. A short time ago the Parker Building, on Fourth avenue, considered a good average fire-proof building, burned, and it was only by a combination of favorable circumstances that it did not spread; needless to mention San Francisco, where the companies paid one hundred and fifty to two hundred million dollars, I think. I was impressed by reading yesterday in the Journal of Commerce a list of November's fire losses, which aggregate $16,407,000, November's fire losses in the United States. Of course I have no direct knowledge of the accuracy of those figures, but the Journal of Commerce has for many years published a monthly record of total losses for the month and a record of losses over $10,000 by individual risks, and on this page there are two columns of risks over $10,000 which have burned in various parts of the United States; and a consideration of that list shows how complicated and difficult a subject the fire underwriters have to contend with; and in many of those cases the fires which occurred were in large cities, which might have spread and involved them in totals which would have left but very few companies able to proceed in business without assessment of their stockholders; practically beginning the business over again.

Q. Do you know when the law was passed which gave the two per cent tax to the voluntary fire organizations through this State? A. No, sir, I do not.

Q. What is the view of the companies, your view, in regard to that? A. My belief is that the companies consider that an improper tax.

Q. Regard it as extortion? A. I would not use that word.

Q. Temper it down? A. The companies of course must obtain or add it to the rate in some way.

Q. Every community, really, that has a fire company is getting two per cent on the premiums paid in that locality, the community, everybody is paying it? A. Yes, sir.

By Judge Bruce:

Q. From your point of view and the point of view of the companies the combination is a necessity for the safe conduct of business? A. Yes, sir.

Q. If the people granted that from your point of view, don't you think, then, that it should be subjected to governmental control or regulation? A. Personally I believe in the minimum of governmental control and regulation.

Q. Assuming that you are dealing in a commodity, whether it be a contract or not, that in the general condition of affairs that it is a necessity; now, if the government permits you to deal in a necessity, and combine for the purpose of regulating the price and practically controlling the market, don't you think that in all justice to the people they should insist upon governmental regulation or control? A. Speaking for the organization which I represent in the territory which it covers, I consider that there is a natural limit, an economic limit, to the possibility of excessive rates, and that is, that competition by companies not members of the Exchange is imminent and possible, or rather possible and imminent, at all times. The situation is entirely different from that of a territory in which the entire premiums are subjected to practically one fire; if at any time the rates on any class, and an easily distinguished class, were too high, the temptation for a company to withdraw and operate and specialize on that class would be sufficiently great to induce them to do so. It is possible, theoretically possible, for a company to operate entirely outside of the organization of which I am manager, and a number of companies do so operate, and if there is any excess of rate charged on any class those companies have the opportunity to profit by that fact.

Q. By your answer am I to infer the people should allow your companies to organize for the purpose of controlling a neecssity, fix the price and then rest in the possibility of competition, as you have spoken of it, or of an economic limit, and have no other security? A. I would not admit that the Suburban Fire Insurance Exchange controlled insurance in my territory.

Q. You have stated that they controlled certainly seventy-five per cent? A. Yes, sir.

Q. And possibly ninety? We have had a gentleman on the stand this morning from Freeport who says that rates were advanced enormously in Freeport on the formation of the Exchange, and when they asked for other rates from the agent or anyone else he says we write in no other companies, and the only answer is the Exchange have fixed the rates. What is the citizen to do, if the government permits you to combine and control rates; shouldn't you be subject to governmental supervision or regulation; shouldn't there be an arm of government to which a citizen or any combination of citizens could appeal? A. Well, Mr. Chairman, feeling the desire at all times to be in a position to justify to those who are affected by the rates made by my organization, I should personally welcome anything which would enable us further and more fully to justify any such public demand or individual demand.

Q. You know that there are some twenty-one States that do not permit any such combinations, do you not? A. Yes.

Q. The State of New York does not permit such a combination. Now, I want to get your point of view whether you do not think, in justice to the people of the State, if the government of the State permits such a combination it should also provide some method of supervision or regulation, some governmental agency to which the citizen who felt aggrieved could appeal to know whether or not this combination was dealing justly with him; that is, if combination is permitted it must be subject to regulation. I would like to get your point of view on that; you are an experienced man? A. Theoretically if we could have ideal supervision I would possibly be able personally to answer that in the affirmative. It is a practical question.

Q. You somewhat doubt, do you, the practical power of the government, or the possibility of the government providing proper regulations? A. That is my personal opinion; I am not yet convinced; I am hopeful; my disposition is, I am optimistic naturally; I believe in progress; I am not wedded to old methods. If anybody can convince me that there is a better and more just way of transacting out business or any other business I personally am interested and would give it a welcome.

By Chairman MERRITT:

Q. It has been suggested, as a very mild measure, that companies might be compelled or directed to file their schedules with the Department of Insurance, if you please, as it now exists, and that they should file all changes, and that the Department have power in its discretion or on the complaint of anybody to cite the companies to show cause, and that in a case of that kind they might have authority to permit or deny the proposed change, without any attempt to manage the business or say what their initial rights should be; that the publicity obtained would answer much of the objection which exists, and would put the companies in a position where they would, as a matter of course, as far as it was possible to do so, have the specific information ready to furnish for the Department or a dissatisfied person, and then only in view of the continuance of the rate-making bodies and the combination of interests; otherwise than that there would be no occasion to consider it; but, inasmuch as all of us who have any property which we own or are responsible for, have got to have insurance, or else be very rich, indeed, why, it is almost as much a necessity as traction and light and anything else that we have to have in our business. That has been a suggestion that has been made as something that might be a step in the direction which, rather tentative, but perhaps wholesome and acceptable, which would be a proper step, and my view of it is that these very large interests involved on both sides want to be treated with the utmost care. It is no pleasure to do things which may adversely affect the interests of a great many people and a lot of invested capital, and I don't think the State of New York has established a reputation for doing unconsidered things of that sort; it has done some things that some people didn't like on the whole; they have not been hastily or without thought; and if we could get something that would appeal to men like yourself, from your experience in business relations as a fair proposition, you can help this Committee and the Legislature to do more than some merely aggrieved person can who has not a broad view and the sources of information and knowledge and experience that a man like you has. A. Mr. Chairman, I appreciate your very fair spirit, which actuates your remarks in this matter. And all I can give is my personal feeling. I came into this — my connection with the fire insurance companies — 25 years ago, from

the engineering side, with all the bias in favor of scientific methods which would naturally attach to such a previous experience and education. And I am constantly looking in the direction, hopefully in the direction, of improvement in the fire insurance business and methods; and hoping that they will not lag behind in the general progress of business in other lines, in the direction of system and equitable methods. I find that practical considerations — by practical I mean properly practical — are constantly hindering and limiting the ideals which many of us have, and which I personally have always had. Among underwriters there are various degrees of dispositions of men, who rather have a fondness for method, and who have a belief in figures and statistics; and others who are skeptical on the subject of figures and statistics. But I have found, generally, among underwriters, especially those who have had a long experience, a desire that the public shall be satisfied, that their underwriting methods are equitable; and I hope to see anything in the direction of prejudice, anything which may apparently justify prejudice with regard to fire insurance methods, removed. And yet the precise method in which it could be carried out, I am yet undecided in regard to. My own organization is occupied to a good deal of the time of our daily experience, is taken up in answering these very questions, such as were brought before you to-day. Our aim is constantly, daily and hourly, to satisfy and explain. To satisfy the individual that he is treated equitably with reference to others of the same class; to justify and be in a position to justify. But whether State supervision of any kind could accomplish that to a greater degree than we can do ourselves, as I said before, I think it is a practical question, rather than — it is a question of whether it would work out practically, as is ideally desired. I think, ideally, it is desired.

Chairman MERRITT: Have you ever directed your attention toward how, or in what way, if at all, the laws could be changed in this State along the lines that would increase the security, or diminish, rather, the chance of loss to property, by laws like fire marshal laws, and matters of that kind? For instance, I have a specific thought. I spoke a while ago about the two per cent. It always seemed to me, assuming that the fire insurance companies didn't want fires, which I assume they all agree on, that that tax

ought not to be paid to any municipality, whether they had a volunteer fire company or not, if they didn't have something that answered to a system of inspection. I have known it to be tried out in a small place, just for an experiment, and there was no question but what it very much reduced the number of small fires in that community. Now, would a law of that sore, or any other general sort, which we could have along that line, be one of the things that would protect our citizens, and incidentally protect the companies from loss — and, as some gentleman testified, that saving would be reflected in the premiums; and that is where we get back again to what it costs. Have you ever given that matter much, if any, consideration?

The WITNESS: The subject of the fire marshal—the fire marshal question, is not one which I have given much personal attention to. But I know that in all of the deliberations of underwriters, or underwriters' organizations, that subject has been considered of great importantce. And that, in the more fully worked-out schedules, such as the Universal Mercantile Schedule, which was largely originated by a former president of the Continental Insurance Company, Mr. F. C. Moore, a distinct and separate item of which was, or is, given for the absence of a proper fire marshal law. In other words, it is embodied, that subject is embodied, practically and absolutely, in the most approved systems of rating; indicating that a fire marshal law, properly carried out, so as to become effective, that the public would immediately gain the advantage of it through reduction of rates.

By Senator WAGNER:

Q. Mr. Reed, do you suppose you could supply the Committee, without very great difficulty, the amount of premiums in the companies of the Suburban Fire Insurance Exchange collect, and have collected, each year for the last three years; and the amount of losses that those same companies have sustained in the last three years? A. I can give you the amount of premiums received now.

Q. How about the losses? A. Of the losses, I have no data. They would have to be ascertained from each company. We have no authority to ask those companies, and we have no authority to make a rule under which we can ask them.

Chairman MERRITT: Wouldn't they like to report those things? A. I don't know whether they are willing to do so or not. They are obliged to do so in certain districts, and to a certain extent, in some sections. Some organization has the power to ask those questions. I should find it very difficult myself to obtain those figures for you.

Q. I thought, perhaps, the rate-making body of your Exchange would be very much interested to know that, in order to determine their rates? A. Personally, I should like very much to have that information.

Q. Don't you think it is necessary, almost, in order to fix equitable rates, to have that knowledge? A. The minute that you take up the question of reporting losses and reporting experiences, you find, what I stated a little while ago, a difference of sentiment on the part of different companies. Some companies look at it one way and some another. Some companies consider that such figures are their private property.

Chairman MERRITT: And it is some advantage to them to keep others out?

The WITNESS: Possibly.

By Vice-Chairman BROUGH:

Q. You stated awhile ago, Mr. Reed, the business in your jurisdiction, or in the territory in your jurisdiction, could not be done except at a loss, if the rates were less than they now are? A. That is my belief.

Q. How can you tell that is the fact if you don't know what the losses are? A. For two reasons. In the first place, at the lower basis of rates, previous to the formation of the Suburban Fire Insurance Exchange, all the indications were that the business was at a loss. One of the principal facts was the withdrawal from writing in our territory of a large number of companies, and the fact that the business remained to a great extent among a few companies, who, as I say, are large enough and writing on such long — whose operations are on such a long period.

Q. And so widely extended? A. That they take a chance of maintaining their agency plants, maintaining their agents, maintaining their plant, which has cost them considerable money, in unprofit-

able territory, hoping that eventually rates will come up again, and they will get their normal figure. In other words, every company has certain territories in which it knows it is doing business at a loss, but it has an expensive plant which it has established in that territory, it has its old established agents, and it permits those agents to do the business they can. Now, that was the situation, as I understand it, before the Suburban Fire Insurance Exchange was started, and I have that to go on; and I have the additional fact that with the big, the very handsome premium, and very handsome reward which is open to any company who chooses to remain outside of the Suburban Fire Insurance Exchange, and write freely in our territory, even below our rates, apparently does not tempt any company.

By Judge Bruce:

Q. What is your brokerage fee, Mr. Reed? A. Ten per cent, practically; because practically all brokers sign both pledges.

Q. What does a broker have to pay for his certificate? A. Nothing.

Q. You have no income, then, from brokers' licenses? A. No.

Q. How many brokers are licensed within your territory? A. Between four and five thousand.

By Assemblyman Colne:

Q. Mr. Reed, in justification, in the matter of State control over these affairs, I don't say to what extent, it has been brought out here by many witnesses, that is, to my mind, that, owing to this combination, there has been a great many reclassifications, and these reclassifications have been rated, and the rates have been higher than heretofore; you have, to some extent, admitted that that does exist; and in justification of it, to an extent, have said that this constant fear of a conflagration prompts most of the companies, from a business standpoint, to have such rates, to meet a contingency of that sort. I would ask, isn't that fear of a conflagration — didn't it exist heretofore, before the formation of this board, or Suburban Board, as you may term it? A. Yes, sir.

Q. Well, then, is it that the advance in fire insurance in the matter of better investigation, better business methods, etc., prompts

them to reconstruct, so to speak, all their tariffs to meet this, or was the business, previous to the formation of this board, done in an improper manner, but not to the same extent since the formation of the board? A. My belief is that previous to the formation of the Suburban Fire Insurance Exchange, the business was done substantially at a loss. That is to say, that over a reasonable period of time, providing for the possibility that any night such a town as Freeport, Mt. Vernon, or Yonkers, or Peekskill, might be wiped off the map, that the companies were writing at a lower rate than was safe.

Chairman Merritt: They re-measured their risks?

(No answer.)

By Judge Bruce:

Q. Do you know what the rates were advanced? A. As I said before, I do not know positively.

Q. Then, how are you able to make that comparison? A. By my inquiries with the companies who were then doing business, who were writing risks in that territory, their statement.

Q. Was their information to you that they were writing below what was a proper rate? A. Yes.

Q. Why? A. I have no doubt they may have given me reasons.

Q. Did they? A. No, I had to gather it from my previous experience, why companies had in some cases wrote below in some special districts for a limited time, less than the reasonable cost of the business.

By Assemblyman Colne:

Q. Didn't it show the fact, that there has been formed a board of this nature, that it is quite possible at any time to jack up the rates higher? A. I personally feel ——

Q. It has been done once? A. Yes, but I feel that unless that were based upon an economic necessity, unless it were simply an advance from an unprofitable figure to a figure of reasonable profit, it could not be maintained.

Q. That has been given as the reason all along? A. Yes, sir.

Q. They should be raised because they were losing money, etc., but we have great difficulty to find out, because there is not sufficient facts given us here to show us there was any reason for the

raising; that is what we want to find out? A. I very much regret, personally, that I cannot present you with the statistics showing it, although personally I should like to very much.

By Mr. Hurrell:

Q. To sum up the whole business, your position, as well as Mr. Robb's and Mr. Jenness', on this subject, it is: That you believe the old rates, before your rates went into effect, were unprofitable, but you cannot prove it by anything you have in your possession? A. (No answer.)

Q. I want to ask you one more question, that is, how far do you control the local underwriters? A. Local boards?

Q. Those local boards, yes? A. In each county, under our rules, agents were encouraged, required, possibly, you might say, to organize a board; and those boards, being composed of agents who were the agents of companies, members of the Suburban Fire Insurance Exchange, were to a considerable extent under their direction.

Judge Bruce: What powers have they?

The Witness: They have power, under the constitution adopted by them, to discipline their own members for rebating. That is one of the principal, perhaps the principal power that they have.

Q. The idea is that these members can only write for board companies, that is, Suburban Exchange companies? A. No, sir; that is particularly not one of our rules. Such a rule is known as the "separation rule," and does not exist in our organization. We have no separation rule. In other words, an agent is not obliged to confine himself to members of the Suburban Fire Insurance Exchange; and a number of our agents, a very considerable number, represent, in addition to companies in the Suburban Fire Insurance Exchange, companies outside of the Suburban Fire Insurance Exchange.

Q. That is to say, there wasn't anything that Mr. Lucas could gain through his becoming a broker with a license from the Suburban Fire Insurance Exchange; there was not any particular advantage he gained by that? A. The advantage was that if he preferred to do business with the companies in the Suburban Fire Insurance Exchange, he could get a commission from them.

Q. What? A. He could get a commission from them. The

companies were perfectly free to accept business from Mr. Lucas even without his having a certificate of the Suburban Fire Insurance Exchange, but they were not at liberty to pay him a commission. Mr. Lucas, at that time, or at the present time, on surrendering his certificate, would be free to go to companies not members of the Suburban Fire Insurance Exchange.

Q. Didn't you just state that the members penalized him if he writes for any other company, by not paying him for the business he may bring to them? A. He need not go to them.

Q. Which results in every one of your agencies supplying business only to your companies, doesn't it? A. Mr. Lucas isn't an agent, he is a broker.

Q. Well, broker? A. It is entirely different; a broker doesn't write policies; a broker doesn't represent a company; a broker is there to place business with any company to whom he may go.

Q. Then you have a different rule as to agents and brokers? A. Oh, absolutely.

Q. You make all of the brokers that do business with your companies, do business with your companies exclusively? A. Yes, sir.

Q. But you allow agents of companies to write for your companies as well as others, and both companies pay? A. I wouldn't like to be put on the record that he has to do business with our companies exclusively.

Q. You mean the rule is, if they do business with other companies first, your companies cut them out? A. If they don't give us the preference. They are free to go to other companies, even our brokers, after they have first offered it to our companies.

Q. At the combination's rates? A. Yes.

Q. If you want the business, and they place it with some other company, their license is taken away from thm? A. (No answer.)

Q. They won't get any more commissions from your companies? A. They would be asked to give an explanation of why they violated their pledge, and if they gave a proper excuse, they would probably be treated very leniently. We are anxious to keep brokers in the Exchange, and not to get them out.

By Judge BRUCE:

Q. How is the expense of your Exchange borne, Mr. Reed? A. Borne by contributions from the companies' members, and a per-

centage on the premiums written in our territory, by those companies, such percentage being ascertained by an estimate each year.

Q. Have you the expenses for last year here? A. There is the expenses from the beginning of last year. (Witness indicates paper.) And here are the expenses for last year. (Indicates paper.)

Judge BRUCE: I offer them in evidence.

(Received and marked Exhibits E I and F I.)

Chairman MERRITT: The Committee stands adjourned to 2 o'clock.

AFTER RECESS.

Chairman MERRITT: The Committee will come to order.

FREDERICK B. DE BERARD, called as a witness, being duly sworn, testified as follows:

By Judge BRUCE:

Q. Where do you reside, Mr. DeBerard? A. In the city of New York.

Q. And what is your business? A. I am the statistician of the Merchants' Association.

Q. And how long have you held that position? A. Thirteen years.

Q. And the Merchants' Association received a communication from the Chairman of the Committee, did they, inquiring as to whether they had any complaint to make, or suggestions with reference to the conduct of fire insurance in this city? A. It did.

Q. And in reply to that communication you are here to-day? A. I am.

Q. I presume by the direction of the president of your association? A. By the direction of the Chairman of the Committee.

Q. Chairman of the Committee? A. Yes.

Judge BRUCE: First I will offer in evidence a copy of a letter which was sent, not only to the Merchants' Association of the city of New York, but to 650 other commercial organizations of the city,

including the Boards of Trade in the various cities, making inquiries with reference to their views on the conduct of fire insurance in the State, and I will ask that it be taken into the record at this place.

The letter so offered was marked Exhibit G1 of this date and is as follows:

"Dear Sir:

"On behalf of the Legislative Investigating Committee, which was appointed to investigate, among other things, the subject of fire insurance, I desire to offer your organization and the members thereof the opportunity to make complaint before this committee in regard to unjust practices, — if there be any, — on the part of fire insurance companies or their agents, for example, as to excessive or discriminatory rates, unfair adjustments of losses, etc.

"In case the prevalence of such alleged abuses should seem to warrant it, the Committee will conduct hearings at a convenient place in your vicinity.

"May I ask you to bring this matter to the early notice of your members, and I shall be very glad if you will undertake to see that this invitation is extended in general to the people of your city through publication by the local press.

"Complaints, either formal or informal, information and suggestions, should be sent to the Legislative Investigating Committee, 55 Liberty street, New York."

Q. Now, will you give the Committee your views, Mr. DeBerard, which are the views of your association, of course, with reference to the questions and inquiries which are indicated in the communication that you have received? A. The Committee took under consideration the expense of fire insurance to the business community, particularly by reason of two elements which they considered excessive, namely, the expense of commissions paid to insurance agents, and the expense of taxation imposed upon the business of insurance in the State of New York, both of which elements enter into the expense of doing business by insurance companies, and upon the aggregate of that expense, plus the loss by fires, the rates of the companies are adjusted so that any element of expense that is excessive or wasteful is reflected in the rates charged by the companies, and an undue burden is placed upon the policyholder.

The Committee, after consideration of those phases of the subject, expressed their view upon them in a formal communication to this body, which states the subject concretely, and I will therefore, with your permission, read that portion of their communication:

I. COMMISSIONS PAID BY FIRE INSURANCE COMPANIES.

Of the premiums paid by insurers, from 5 per cent to 37 1-2 per cent is paid by insurance companies as commissions to agents and brokers for securing business. In the city of New York 5 per cent or 10 per cent brokerage is paid upon premiums derived from the central business district, increasing to 25 per cent in the case of residences, churches, etc. In other parts of the State many companies pay flat commissions to agents of 15 per cent, others pay 20 per cent or 25 per cent, and an additional commission up to 10 per cent, contingent upon the profits on business secured. The large amounts so paid for commissions are, of course, included by the companies in the cost of doing business, which total cost must be provided out of the aggregate premiums derived from insurers. In consequence, these premiums are materially higher than they would be were the commissions gauged upon the scale of compensation to salesmen which usually prevails in other branches of business.

The great disparity between the cost of selling insurance and the cost of selling merchandise raises the question whether the existing system and scale of commissions do not impose an excessive and unnecessary burden upon the premium-payer, without any corresponding benefit to the insuring companies, and whether the existing system might not be so modified as to materially reduce the loading which each policy now carries by reason of the large cost of commissions.

While this association is not prepared to assert that the present system of commissions is not a reasonable and proper adjunct of the insurance business, or to assert that it involves a large element of avoidable waste, to the detriment of policyholders, it submits that the subject might be inquired into by the Legislative Investigating Committee in order that the facts may be fully developed, and if any unreasonable waste may be found to exist, a remedy may be devised.

II. TAXATION OF INSURANCE COMPANIES.

This association calls attention to the heavy burden of special taxation laid upon insurance companies in this State, but actually borne by insurers, whereby the cost of insurance is materially increased. The imposition upon the business of insurance of taxes for revenue is opposed to sound principles of taxation. Ordinary taxes represent the payment to the government of a part of the profit derived from the economic use of wealth. Taxes derived from an insurance fund represent an addition to the burden upon a community imposed by the destruction of wealth. It is wholly unjust that the fund exacted from the community to distribute the burden of destruction should be increased by government exaction.

The business of insurance, however, is one to which government regulation is applied on the theory that the business shall be safely and properly conducted, and that those who contribute to the fund shall be guaranteed the protection for which they pay. If governmental regulation is necessary, it may not be unreasonable that the cost of such regulation should be borne by the business of insurance and paid for out of the premiums derived from insurance. Any taxation of insurance beyond the sum necessary to pay the cost of regulation is unreasonable and unjust, and should be abolished.

At present a corporation tax is exacted from insurance companies under section 187 of the Tax Law, from which the State derived during the last fiscal year $1,236,973.53. Under sections 33 and 8 of the Insurance Law, a so-called reciprocal tax is imposed upon companies of other States, the rate of said tax equalling the rate imposed by such other States upon the insurance companies of this State. The amount collected under these provisions was $427,074.40. The local authorities of every municipality in the State having a fire department are likewise empowered to impose a tax of 2 per cent on the gross premiums derived on all insurance business transacted by foreign companies within that municipality. No data are available showing the aggregate amount of such local taxation.

In the city of New York, however, during the last fiscal year the amount exacted under this special tax was $301,577.05, which amount was paid for the benefit of the firemen's pension fund.

The aggregate of the items cited above is upwards of $1,965,000. The total cost of conducting the State Insurance Department, to which the regulation of insurance companies is entrusted, was about $226,000 during the same period. Thus, after payment of all the expenses incident to regulation, the State derived a net revenue from the taxation of insurance companies of about $1,739,000, exclusive of the probably considerable amount paid to local authorities for the benefit of the fire departments.

Owing to the varying rates of taxes imposed upon insurance companies of different classes, it is impossible to state the average percentage upon the aggregate of premiums represented by the foregoing total, but it is probable that the special taxes exacted amounted to between 2 and 3 per cent. The premium rates charged by insurance companies represent not only the amount necessary to meet fire losses, plus a reasonable profit upon the capital of the companies, but also represent and are based upon the expenses of conducting the business, and of this expense the item of taxation is a large and important one. In the course of the inquiry held during the current year by the Illinois Fire Insurance Commission, there was presented a tabulation of the taxation of fire insurance companies for the 18 years, 1891 to 1908, inclusive, showing the ratio of taxes to premiums less losses and expenses. This tabulation was compiled from official figures of the New York State Insurance Department and showed that, while the profit to premiums in the 18 years had been only 3.06 per cent, the ratio of taxes to premiums had been 2.67 per cent, and that the taxes paid in the period named aggregated an amount equal to 87.5 per cent of the profits derived from the business transacted.

As urged above, this excess of taxation is simply a burden upon calamity. The whole subject should, therefore, be carefully investigated by the Legislative Investigating Committee with a view to recommending legislation to modify or abolish these burdensome and objectionable taxes.

Q. Now, is there anything further upon the subject which you personally care to have placed upon the record? A. I think that covers all the views that we desire to express, further than to say that the specific commissions paid by various companies can doubtless be derived by questioning other proper officials, or by ques-

tioning the officials of the insurance organizations. Such questioning will develop the exact extent to which these companies resort to the payment of excessive commissions for the purpose of procuring business, and will also develop the proportion that the commissions bear to the business derived, which will have an obvious bearing upon the expense of transacting that particular business.

Q. Those inquiries have been made of the managers of the different fire insurance exchanges who have been upon the stand, and also men connected with the National Board of Underwriters, and also with the New York Board of Underwriters? A. That covers the ground, then.

By Chairman MERRITT:

Q. Have you had occasion to get any information, Mr. DeBerard, as to whethe the cases of the excessive commissions to which you referred, as to whether any company was conducting its business generally on that basis, to such an extent as to ultimately wreck a company competing with it? A. We have made no investigations along those lines. I might add, further, however, that a number of leading companies, some years ago, entered into a sort of a mutual arrangement or agreement for the elimination of commissions, to a maximum of 15 per cent. That agreement was observed reasonably well for some time, but we are informed, although I cannot speak from personal knowledge, that of late years it has been so generally disregarded, to the detriment of the companies that did observe it, that the abolition of the agreement has been seriously considered.

At any rate, it has not been adequately observed, and there seems to be no reasonable check upon the payment of excessive commissions, because of the action of the companies themselves.

By Judge BRUCE:

Q. Well, what remedial legislation, if any, would you recommend, other than that refering to the question of taxation? A. That I am not prepared to offer any suggestion upon.

Q. Has your association had the matter under discussion? A. Not as to the form that legislation should take. It has not been prepared to offer suggestions until it had the benefit of the report of

the full investigation of the Committee, when it might very probably have some suggestions to make.

CHARLES E. MEEK, called as a witness, being duly sworn, testified as follows:

By Judge BRUCE:

Q. Where do you reside, Mr. Meek? A. Brooklyn.

Q. What is your business? A. Secretary of the National Association of Credit Men.

Q. And did your association receive a communication similar to the one that the former witness, the one that was received by the Merchants' Association of New York? A. I could not say as to that, sir.

Q. Did you receive a communication from the Committee with reference to dues of your association on the question of fire insurance? A. Mr. Whitney called at the office, and, knowing that we were interested in the subject, suggested that I come before the Committee and make a statement.

Q. And it is in response to that that you are here to-day? A. Yes, sir.

Q. Will you kindly make such statement to the Committee to be spread upon the record as you desire to make with reference to the whole subject? A. Our association is interested in the question of fire insurance in connection with its bearing on the granting of credit, and we have through our organization taken steps in the direction of urging the smaller merchants throughout the country to protect their credit by carrying sufficient fire insurance of reliable character. In this direction we have circulated a considerable amount of reading matter, and I brought, for the benefit of the Committee, a series of pamphlets which we are using, and we have now identified ourselves with the National Association of Fire Prevention for the purpose of assisting that association in the distribution of its literature, and aiding it in its campaign of fire prevention, which is probably one of the most important elements of the subject.

The fire loss is estimated in this country to be at the rate of $500 each minute, and it is the belief of our Association that a great deal can be accomplished towards reducing this fire loss.

In that direction we feel that the building laws should, so far as possible, be strengthened. We believe that the use of explosives should be strictly regulated; that the storage and use of combustibles should be carefully regulated. We believe that the use of fire works should be regulated, and there are a hundred and one other matters of more or less importance which we feel could be reached, and all of which would tend to reduce the fire loss. As an Association, we favor the enactment in every State of a fire marshal law, and I have taken an extract from one of the reports presented at a convention: "In fire insurance law perhaps the most effectual measure tending towards a reduction of loss is what is known as the fire marshal law. This statute is in effect not only in a few States, but it has proven of great value wherever tried—in effect only in a few States, but it has proved of great value wherever tried. The law provides the State with authority and means of investigating the causes of fire, and of prosecuting where there appears to be evidence of incendiarism or arson. It gives to insurance a force aimed at fraud, a factor that deters men from acts of fraud. In addition, there are gathered through the fire marshal's department invaluable statistics regarding causes of fire which warn against faults of construction and equipment, and indicate what should be penalized in rate making, and what should be avoided in future construction."

We feel that through the office of a fire marshal in any State that a great deal can be accomplished in the direction of fire prevention, through instruction in the public schools. I do not mean by that a course, a class on fire insurance, but through the distribution of pamphlets such as is issued by the Fire Prevention Association. As an illustration, a pamphlet published showing the results of the use of fire crackers and fire works on the 4th of July; and a pamphlet which is on the press now showing the results in the way of fires through the Christmas tree or through persons decorating themselves with cotton batting, and playing the part of Santa Claus, from which a number of fires take place every year. The fire marshal's department of the State of Nebraska has issued a text book on the subject, which is being used in the schools, and there is a fire day, when the teachers in the public schools talk to the children about the dangers of fire, playing with

matches, and matters of that kind. We believe that fire insurance agents, or the sellers of fire insurance in the person of agents, should pass an examination, that they should be licensed by the State as competent men to do that work, men who are in a position to advise the buyers of fire insurance the steps that they can take in order to reduce the risks, and consequently reduce the cost of insurance. We have had cause to examine into what is called the valued policy law, and this statement was made by one of our committees: "The valued policy law is on the statute books of several States; by putting a chance of profit on the wilful destruction of property it is calculated not only to increase fire loss, but to add to the premium burdens of policy holders throughout the State. It subverts the true principle of insurance, which is that of indemnity only, and forces the company to pay the full amount named in the policy, though the actual loss may be but a fraction of this amount. It contemplates therefore that insurance shall be for the assured a money-making proposition, instead of a means of replacing loss, and it is easy to see into what dangers such a principle leads. Several executives recognizing this have vetoed valued policy bills, which their Legislatures have passed," and it states, "Where this law exists we ask earnestly for its repeal in the interest of right morals and good business." And I might add that our association has at its last convention authorized its incoming fire insurance committee to retain counsel and have drafted a fire marshal's bill which we hope to be able to present in the course of the next two or three years to a number of the State Legislatures. Now, Mr. Bruce, that is as far as everything that I have to say goes.

Q. Have you given any consideration to what is known as the co-insurance clause, the 80 per cent co-insurance clause? A. Why, only to the extent of distributing some printed matter, explaining the situation, that is the co-insurance clause.

Q. Recommending it or condemning it? A. Well, we have never taken steps either one way or the other, so far as that is concerned, leaving that entirely to the buyers of insurance.

Q. Has your organization given any attention to the question of rates in various localities? A. Nothing more than to recommend to our members that where rating boards existed, that they

endeavor to co-operate, or go to those boards with information relative to their work.

By Mr. HURRELL:

Q. As matter of fact, I take it from some of the information contained in the pamphlets to business men, that you recommend at least the business man carry 80 per cent. of his sound value, do you not? A. I can say that so far as our association is concerned, that we recommend a man to carry full insurance covering the entire value of his merchandise, whether it is eighty per cent. or one hundred per cent.

Q. The idea being that you want him insured so that his credit will be strengthened? A. Yes, sir.

Mr. HURRELL: I will offer these pamphlets as an exhibit.

(Admitted and marked Exhibit H-1.)

Q. How soon will your proposed fire marshal bill be drafted by your committee? A. Probably in time to be submitted at our next annual meeting in June.

Q. I presume if the committee should desire to have you co-operate with it upon that subject, if it comes to that, you will be willing to do so? A. Certainly, sir.

JOHN J. EAGAN, called as a witness, being duly sworn, testified as follows:

By Mr. HURRELL:

Q. Where do you reside? A. 90 Monroe street, Brooklyn.

Q. What is your business? A. Well, real estate largely.

Q. Have you property you insure within the jurisdiction of the New York Suburban Fire Insurance Exchange? A. Yes, sir.

Q. What has been your experience in reference to the rates imposed upon your properties prior to and since the organization of the Exchange in 1897? A. Prior to the organization of the Exchange I had insurance at Rockaway Beach at one per cent for three years. Immediately after the formation of the Suburban Fire Insurance Exchange the rates were raised to three per cent for one year, or nine times the amount.

Q. Whereabouts in Far Rockaway were these properties? A. Rockaway Beach, on the boulevard, between Seaside Station and Rockaway Park.

Q. What was the character of the property? A. Little small frame buildings.

Q. What changes, if any, had taken place in those buildings which warranted any such change in rate? A. None whatever, only instead of their being the old volunteer fire department, in the meantime the city had sent down a paid department, and they were working when they raised the per cent from one per cent for three years to three per cent for one year.

Q. Had there been any large fire losses in Rockaway Beach prior to the time when the rates were raised? A. None whatever.

Q. When those rates were raised what did you do? A. I refused to insure.

Q. Did you make any inquiry of your agent why the rates were changed? A. Yes, sir. I have got some letters here from the agent that rated me at that time. I would like to submit them:

"March 18, 1907.

"Eagan Realty Company,

"Dear Sir:

We are in receipt of your communication of the 16th inst., referring to insurance on cottages. We procured this insurance at the prevailing rate existing during January, at which time the market is much firmer than after the severe cold and the liability of danger arising during the winter months by reason of the frozen condition of hydrants, and the difficulty of the fire department reaching distant points." These fire departments that they refer to are about a block and a half away either side, two apparatuses. "We are thoroughly investigating the question of rates, especially that of the dollar for three years, and will advise you in the course of a few days. If it is possible in any way to secure the insurance at any such figure, we will certainly endeavor to do so in your interest," etc. That is dated March 18, 1907.

Q. Who signed that letter, please? A. Tannenbaum; I. Tannenbaum & Company.

Q. A New York broker? A. Yes, sir. They wrote another letter on March 22nd, 1907, and they said: "Gentlemen, further replying to your valued favor of the 16th inst., we have scoured the market in an endeavor to secure a lower rate of insurance on the property situate at Seaside, N. Y., and as a result thereof, we desire to advise you that we are unable to do better than the rate quoted on policies delivered to you, namely, one and a half per cent for three years." That was their rate, but I had already received and had in operation policies written by another broker of one per cent for three years which were written in 1907. "In fact, the majority of companies, as well as agents representing various institutions in this territory, demand and receive three per cent per annum for insurance on like property. We believe that the rate of one per cent for three years was quoted to you by some unresponsible agent, and that if the policy if issued will not remain in force for any length of time before such will be recalled by the company issuing same." I would like to say in this connection that the policy that was issued for one per cent for three years remained in operation until 1910; they never were changed. You see, they say here, "majority of companies, as well as agents." Here is another:

"February 2nd, 1909." This is a little over a year after that: "Gentlemen:

Before renewing the various policies aggregating $9,000, expiring on the 10th and 13th insts., covering your property at Seaside, Rockaway Beach, L. I., we beg to advise you that the rate thereon has been advanced by the Suburban Fire Insurance Exchange from one and one-half per cent, for a three-year term, to three per cent, per annum, or seven and a half per cent for a three-year term policy. Your Mr. John J. Eagan is familiar with these conditions, and before renewing the policies in question, we would thank you to be good enough to extend us your early instructions in connection therewith. We learn that at the next meeting of the Suburban Fire Insurance Exchange the question of reducing the rate at present applied to your property was thoroughly discussed, but that body after mature consideration decided not to make any change in the rate as at present applied thereto. Under these circumstances we would appreciate your early advices and instruction in connection with the expiring policies."

I don't know what was written to them; I haven't that; I know I remember writing a letter refusing to insure under any such conditions as that. Then they wrote another letter:

"February 16, 1909." You see this was on February 2nd, this other letter, a week or two after: "Responding to your favor of the 15th inst., we beg to advise you that the Suburban Fire Insurance Exchange has re-rated all property within their jurisdiction, and in a majority of the cases has increased the rate heretofore applied to each specific risk. In your particular case there has been no specific rates heretofore applied to your property, the same having been left to the individual discretion of the companies underwriting risks in that section as to rate and condition. Of course, we have no definite information as to whether any other property in that section of Rockaway Beach has been re-rated, but from our experience in connection with property under the jurisdiction of the Suburban Fire Insurance Exchange, we are quite confident that all risks within said territory have been subjected to re-inspection and re-rating." We canceled all the policies and told them we did not want any insurance, and then they wrote this letter: "March 8th, 1909. Not having received any definite instructions from you relative to the policies of insurance expiring on the 8th inst., in an amount of $6,000 covering your property at Rockaway Beach, L. I., and assuming that in view of the high rate placed thereon by the Suburban Fire Insurance Exchange that such will not be required renewed by you, we have allowed the policies in question to mature. However, if this is contrary to your wishes, be good enough to promptly advise us and we will be pleased to renew the same."

Q. Did you then try to secure insurance in companies that were not members of the Suburban Fire Insurance Exchange? A. We dropped Tannenbaum altogether, and then took up J. Eckert & Company, and they got us some insurance from outside companies, but before the Suburban Fire Insurance Exchange was formed we paid one per cent for three years. They are now charging one and a half per cent for one year; and that is the existing rate; we got it through outside companies.

Q. That is now, one and a half per cent for one year? A. One and a half per cent for one year.

Q. And what is the rate of the Suburban Fire Insurance Exchange? A. Now?

Q. Yes. A. Three per cent for one year.

Judge BRUCE: Mrs. Weidner.

EMMA WEIDNER, called as a witness, and being duly sworn, testified as follows:

By Judge BRUCE:

Q. Where do you reside, Mrs. Weidner? A. 86 Center Avenue, Union Course, Long Island.

Q. Have you property there on which you have insurance? A. Yes, but that isn't the property I wish to speak of. It is Brooklyn property.

Q. You have property in the city of Brooklyn, on which you have insurance? A. Yes, sir.

Q. And you have some complaint to make of the manner in which you have been treated by the insurance companies A. I have.

Q. Well, I wish you would now just state it. A. Well, in the latter part of 1900 my father procured this property, which is a four-story double brick building, with stores on the ground floor. The first insurance he paid was in the summer of 1900, when the premium amounted to $12, I think it was. Mr. Hurrell has my papers.

Mr. HURRELL: Do you want them? (Hands papers to witness.)

A. I can't remember just exactly the dates. (Witness refers to papers.)

The following year, 1901, the premium amounted to $22.

Chairman MERRITT: On the same amount of insurance?

The WITNESS: The same amount of insurance, and the same conditions.

Chairman MERRITT: Any change of tenants or business?

The WITNESS: Well, not in particular. Up to that time we had nothing except grocery stores, or candy store, something like that, and the tenants above. In 1903 the insurance amounted—

the premium amounted to $72.20, I think it was. I have two policies, $59.40 and $13.20.

Chairman MERRITT: The same property and the same amount of insurance?

The WITNESS: The same thing. And at that time it being insured as they called it at full value, I should have had a reduction of ten per cent on this, which I suppose they knew, but they didn't give it to me, or inform me I should have that reduction. But I was told I was entitled to it, so the following year I got that reduction, which made my insurance amount to $65.34. That I paid for a number of years.

Assemblyman COLNE: Did they make any allowance for the previous year?

The WITNESS: What is that?

Assemblyman COLNE: You say you had 10 per cent. that year, they didn't make any allowance for the previous year?

The WITNESS: No, they did not, not until I found it out and demanded it, did they give me my reduction which I was entitled to. I paid that same amount until the summer of 1909, when they sent me bills amounting to $102 and some cents. I haven't that here.

By Mr. HURRELL:

Q. What was your original insurance? A. $11,000.

Q. I mean to say, the original premium? A. $12.

Q. And in 1909 they charged you $102? A. $102.

Chairman MERRITT: The same amount on the same property.

By Judge BRUCE:

Q. You had the same amount of insurance on the same property? A. Yes, sir.

Q. And the premium was advanced from $12 to $102? A. Yes, sir. Well, perhaps, I should say that at the time they raised me in 1903 from $22.50 to $72.50 I, after that some little time, went over to the Board of Underwriters, and I personally saw Mr. Haas, who was the manager, and I told him I would like to see if something could not be done about my insurance as I con-

sidered it too high. And he denied to me that they made the rates there, or that he knew where they were made, or that he could tell me anything about it. And he finally told me I would have to go to the company in which I was insured.

I therefore went down to the Sun Office Building and told them I had come in to see if I could have my insurance reduced. They told me that they could do nothing about it. I asked them where I could go. They said I would have to go to 32 Nassau street, to the Fire Insurance Exchange. I said, "Are you sure?" They said, "Yes, that is where the rates are made; we can do nothing here. We have no power to alter a rate, and we would be fined if we did." I said, "I have just come from there." He was surprised, and advised me to send to them for a schedule of rates, saying that perhaps in that way I might get a reduction.

I immediately went over to the Post Office and sent a postal card to the Exchange asking for a schedule of rates. I have here a letter from Mr. Haas in reply. Shall I read it?

The Chairman: You may.

The WITNESS: (Reading) "Dear Madam: We received yesterday your postal card undated, asking us to furnish you a copy of the schedule of rates for insurance on your property, at No. 946 Gates Avenue, Brooklyn. Referring to your interview at this office on July 25th, we beg to repeat now, in response to your postal card, what we stated to you then; that this risk is rated for exposure, the rating on the building being 26, to which should be added a charge of 31 cents for exposure, and a district charge of 11 cents, making the total rating on the building 66 cents; from which rate no reduction can be allowed at this time."

If you will permit me, I would like to read the letter I wrote them in reply to that. I addressed it to Mr. Haas. I said: "I received your letter of July 27th, in regard to rate for fire insurance on property at 946 Gates Avenue, Brooklyn, in which you say 'from which rate no reduction can be allowed at this time.' In our interview at your office on July 25th you told me you did not make the rates, and the only way possible for me to get a reduction would be from the company in which I insured, which is the Sun Fire Insurance Company. I called on them, and acting at their advice, sent to you for a schedule of rates. Upon

receipt of my postal, and without any communication with the Sun office, you write me that no reduction could be made. I now ask you by what authority you made that statement, after telling me you did not make the rates and could do nothing in the matter. I again request a schedule of rates on this property."

After a couple of days I received the schedule without any further communication.

So, as I say, then I paid the $65 until 1909, when I received bills amounting to $102 and some cents. I then went to my agent, and asked him why they had raised my insurance. He said he didn't know, and the only way he could find out would be for me to secure this schedule of rates for him to take to the office. So I took it to him, and he went over there. He went over to the place, and they told him that there had been an extra percentage added on account of the printer who is in my place not having a certain kind of can to keep his waste material in; and another percentage had been added on account of the filthy condition of our cellar; but if those things would be remedied why those would be taken off. So I requested the printer to get the can, which he did, and our cellar was kept in the usual way, and I got that reduction, which made my insurance premium amount to $85 and a few cents.

Chairman MERRITT: Practically a reduction of about twenty dollars?

The WITNESS: Yes. Then this last summer I paid $79.20.

Chairman MERRITT: Had you had a printing establishment there all these years?

The WITNESS: No, they came in there about—let me see—a year ago last summer.

Q. What floor of the building did the printer occupy? A. The store floor, the ground floor.

Senator WAGNER: What was there before that time; the character of business?

The WITNESS: Well, we had grocery stores, and a tailor, and a little vegetable store, and the like of that.

Chairman MERRITT: The increase from $65 to $85, that is, that net increase, was on the ground, was it, that a printer had gone into the first story, and that was hazardous?

The WITNESS: That added some to the amount, and then his not having the can. And I would like to say here that in speaking to the printer about it, he said when the inspector came there he didn't ask him if he had this can; he simply looked in, and as he didn't see one, he added so much more to the insurance. But they claim that the principal cause of the raise in rate is the exposure on account of a building next door, which is used as a manufacturing place.

Assemblyman COLNE: Has the character of that changed at any time?

The WITNESS: No, not at all; it was there, the same man, in the same building; and I have a letter here which I asked him to write in substantiation of what I say. Shall I read the letter?

Chairman MERRITT: Yes.

The WITNESS: (Reads) "To .the Legislative Investigating Committee, Gentlemen: By the request of Mrs. Weidner, of Union Course, Long Island, I herewith give you the information asked for concerning the business carried on at 950 Gates Avenue, Brooklyn. I have been located at the above address for the past 16 years as a manufacturer of articles, as stated at the head of this sheet (that is, rugs, cassocks, ottomans, &c.). And in doing so use no combustibles whatever. I have been in this line of business here for the past 18 years, and have never had any fire trouble of any kind. Would also mention that the rate charged us on stock and fixtures is very high, being $2.40 per hundred. Trusting this will be of value to you, I remain, Yours truly, George E. Colner."

Chairman MERRITT: Have they made a corresponding increase on the neighbors about there, do you know?

The WITNESS: No, that I can't say.

Chairman MERRITT: You don't know that they have?

The WITNESS: No, I don't know. But he tells me that he doesn't think the woman who owns the building where he is, is insured at all; and I know that those on the other side of my house, they have told me they did not have any such high rates as I have.

Judge BRUCE: Is there anything further you wish to state, Mrs. Weidner?

The WITNESS: Well, I just want to say that there was another

insurance agent called upon the printer who was in my place, and asked him to let him try to see if he could not get lower rates for him, and also on the building. And he said in order to do so that I would have to get this schedule of rates for him, and he drafted a letter, and left it with his card, for me to sign and send to the people for rates. But I didn't send that letter, but I wrote a letter along those lines to the Exchange, and I just received an answer from this this morning.

Judge BRUCE: You may read it.

The WITNESS: (Reads): "Mrs. Emma Weidner, 86 Central Avenue, Union Course, Long Island. In reply to your communication of the 7th requesting us to furnish you with a copy of the schedule of your rating for insurance, we beg to state that under the rules of the Exchange but one copy of the schedule can be furnished. In accordance with your request a copy of your schedule was mailed to you 8-8-'06; this seems to have been transferred to your brokers, since it was brought to us for correction 9-9-'09; and to whom we would respectfully refer you in reference to the subject. Very truly yours, New York Fire Insurance Exchange."

Chairman MERRITT: That was the schedule you got at this previous date?

The WITNESS: Yes, I got this schedule in 1906, as it says here, but I didn't make use of it until 1909, when they raised my rates so high. Then I gave it to the broker and he took it to them and got this reduction.

Chairman MERRITT: I suppose you can get that schedule?

The WITNESS: I can get it from the broker.

Chairman MERRITT: Is there anything else you want to say, Mrs. Weidner?

The WITNESS: I don't think of anything more.

Judge BRUCE: I desire to recall Mr. Eagan.

JOHN J. EAGAN, previously sworn, recalled for further examination:

By Judge BRUCE:

Q. I neglected to ask you, or to inquire of you when you were on the stand a few moments ago, whether you had an interview

with the President of the Suburban Fire Insurance Exchange with reference to your rates at Rockaway Beach? A. I did have an interview with him. I complained so much about it, that Mr. Eckert, of Eckert & Company, said he would try to bring the President of the Suburban Fire Insurance Exchange down to look after the property. And he finally succeeded in bringing him down there. I think it was last Washington's Birthday, and he spent about an hour going over the premises. And he examined it all and was very much surprised to think that any such rate as that should exist. That there was nothing there to warrant it. The condition didn't warrant it; and he didn't see how they could have got such a rate as that; and he would see what he could do to reduce it. I have inquired from Mr. Eckert since if he succeeded in having it reduced. And all Mr. Eckert told me was that that was the rate; they were going to leave it that way, they wouldn't change it.

Q. What was the name of the President, do you recall? A. His name is Day. He is President of some insurance company here in the city, too, I believe.

Q. That was the only conversation you had with him? A. That is the only one with him.

JOHN J. VAUTIER, called and sworn as a witness, testified as follows:

By Judge BRUCE:

Q. Where do you reside? A. 156 West 128th street.

Q. In the Borough of Manhattan? A. Manhattan.

Q. What is your business? A. I am president of the New York Gas Tubing Company.

Q. Have you a complaint to file with the Committee; or a statement to make to the Committee with reference to the manner in which you, or your concern, have been treated by the fire insurance companies? A. I have, sir.

Q. You now have an opportunity to state it. A. Well, in the fall of 1905 I moved into the building known as 585 to 591 Hudson street. My rate then was 1 1-2 per cent. Some six months after I got a rate of 1 per cent, that lasted, I should judge, about

four years. Then the underwriters commenced boosting rates, and finally they got me up to $33.44 per thousand. Since that the city has spent millions of dollars putting in the high pressure, right in our district. We have a better class of people in there than ever before; during all these years I have been there we have had about eight fires that started in the building, and the sprinkler system has put out every one of them.

Q. When did you install the sprinkler system? A. When the building was put up, sir.

Q. When was that? A. That—I don't know; it was before I moved in the building. I rent.

Q. Did you make complaint in regard to this advancement of rate? A. I certainly did.

Q. To whom did you make your complaint? A. To my insurance broker.

Q. And what reply did you receive? A. He said it was a uniform rate; I would have to pay the same as other people, couldn't do any better.

Q. Have you endeavored to secure insurance in companies other than members of the New York Fire Exchange? A. I have not, sir. I understood that there was only the Lloyds a person could get. I was insured by a Lloyds once, and had a fire, and could not collect my money. So I didn't care to tackle them again.

By Mr. Hurrell:

Q. You did not get any further explanation of the change in your rate, only it was a uniform rate, and that was all there was to it? A. That is all.

By Senator Wagner:

Q. When was the high pressure system put in? A. About two years ago, I think.

Q. About two years ago? A. About that.

Q. After that there was no reduction in the rate? A. There was a raise in the rates.

Q. There was an increase in the rates? A. There was an increase in the rates.

Q. In dollars per thousand, what was your raise, from the time you first insured, up to the present time? A. I was carrying $20,000 a year right along up to about two years ago, when they boosted the rate, then I carried less stock, and cut my insurance down to $14,000.

Q. I mean, per thousand? A. How much was the raise?

Q. Yes, per thousand dollars insurance? A. If I remember, the first raise we got was $1.75, then to $2.30, then to $2.80. I remember it has increased to $2.80. Then they boosted it up to 4 per cent, and finally we would not take any insurance and they sent out and had it re-inspected and put the rate up to $33.44. That is for a full clause insurance.

By Judge BRUCE:

Q. Then your advance was to how much per thousand? A. To $33.44 per thousand.

By Chairman MERRITT:

Q. Have you ever asked the companies to educate you how to make your risk so you could get the rate down? A. No, sir, I never did. I have done everything they asked us to do in the building.

Q. Did you ever ask them whether you could do any more? A. I never did, personally, but I understand the agent of the building has done so.

Chairman MERRITT: Your broker has done that for you, hasn't he?

The WITNESS: Well, the agent of the building would go to his broker. That wouldn't be in my line.

JOHN B. BENTON, called as a witness, being duly sworn, testified as follows:

By Judge BRUCE:

Q. Where do you reside, Mr. Benton? A. Elizabeth, New Jersey.

Q. Have you property situated in the State of New York? A. Yes, sir.

Q. On which you carry insurance? A. Yes, sir.

Q. And where is the property located? A. The Ross Building corner of Hudson and Bethume streets.

Q. Do you own the real estate, or are you a tenant? A. Tenant.

Q. And what business are you engaged in? A. Manufacturer of registering machines, tally registers and loose leaf ledgers.

Q. And how much insurance do you carry? A. About ten thousand.

Q. And what is your present rate? The present is about twenty-eight.

Q. Is it about 2 8-10ths? A. It is about 2 8-10ths.

Q. Now, do you wish to make a complaint to the Committee in regard to the treatment you have received from the insurance companies? A. Yes, sir.

Q. Will you just please state it? A. About sixteen years ago I was paying one per cent, and since then the rates have been raised gradually until they are now — well, I think I paid prior to this about three per cent, the last year prior to this. This last payment I made was about 2 8-10ths per cent, and I think it is excessive. That is all.

Q. By what steps were these advances made, or were they made all at once or gradually? A. Oh, no; they were gradual.

Q. Well, did you make complaint to the company which issued your policies? A. Yes, sir. We objected to it, but we could not get any rebate.

Q. Well, what excuse, if any, did they give as the reason for the advance in rate? A. There was no reason, except that that was their rates, and they could not get it any less. The agent said it was impossible to get it any less.

By Chairman Merritt:

Q. And you could take it or leave it? A. Yes, sir; that was it exactly.

Q. Had there been any change in the character of your building or its occupancy? A. No; only I think it is better protected from fire now than it was then, when we first went into it.

Q. In what respects? A. It is supplied with sprinklers all through, and the agent of the building uses the greatest of care in

having the water buckets filled, and everything in perfect condition, so that in case of fire that we can put it out ourselves.

Q. Well, has there been any general change in the character of the neighborhood or the surrounding buildings? A. No. This building is all alone by itself. It occupies that square between Bank and Bethune streets, and Hudson street on one side, and Greenwich on the other.

By Chairman MERRITT:

Q. It is in the high pressure district, isn't it? A. I think so.

By Senator WAGNER:

Q. Did you have the sprinklers in there when you first became a tenant of that building? A. No. When we first went into the building there were no sprinklers.

Q. No sprinklers, and your insurance was at a less rate than it is now with sprinklers in? A. Yes; only one per cent then.

JOHN MCGHIE, called as a witness, being duly sworn, testified as follows:

By Judge BRUCE:

Q. Where do you reside, Mr. McGhie? A. 50 First Place, Brooklyn, New York.

Q. What is your business? A. I have retired, sir. It was tea and coffee business.

Q. Have you your business insured; your property? A. Yes, sir.

Q. And you wish to make complaint about the treatment which you have received from insurance companies? A. No, sir; no, that is not my object in coming.

Q. What is your object in asking to be heard? A. Some six or seven years ago there were a series of fires caused by dry goods being ignited in small dry goods stores, and as I was going along the street I noticed how near to the gas burners these ribbons and other things were placed, and it struck me that probably those places are insured, and why the insurance companies permitted those things. It is

all wrong, I said. They could prevent these fires by a little attention to this matter, so a few days after it, I saw my broker, and he said, "I will take it to headquarters, and you can talk to them about it," and I said these fires ought to be prevented, so he took me to a place, it was Liberty street or Pine, or one of those streets, into an office. I do not know where it was; whether it was the Board of Underwriters or whether it was the New York Fire Exchange he took me to, but he introduced me to a gentleman. I do not remember his name. He was medium sized, and rather slightly built, quite nervous, and I, after being introduced to him, said to him, "I want to talk to you about how to prevent fires." I said, "You are having too many of them." He very nervously and very hastily said, he said, "We want fires," and he says, "If there are not fires people will not insure," and he said, "The more fires, the better for our business." So that closed the dialogue about prevention of fires.

Q. Now, you had some recommendation which you submitted in a written communication to the Committee with regard to the fire marshal, did you not? A. Well, I will just, if you will permit me—I noted down what I wanted to say, so I will remember it. I was astonished. I would like to say that a man like that ought to be in prison, that will sacrifice property and the lives of men and women and children for to make money. He ought to be in State's prison for life.

By. Mr. HURRELL:

Q. I thought you said in your leter, Mr. McGhie, that you could give us his name. Is that so? A. Did I? No; I do not think I said that, because I could not. Kindly look at that letter.

Q. (Reading) "I can give you his name if you desire it." A. Well, that was my intention; to ask the broker that was with me; the broker with whom the information was.

Q. Well, have you any definite recommendation for legislation? A. I have.

Q. All right, what is it, please? A. Now, the causes of fire generally are, first, ignorance; secondly, carelessness, and thirdly, covetousness in some cases to such an extent that some people will set fire to their property to get their money. Those are the causes. Now, the remedy is this: there ought to be a Board, a company

of able, experienced, honest men that will examine all property before there was any insurance policy issued for it. There ought to be. Whether the State ought to appoint them or whether it ought to be delegated to the Fire Department of the city, I do not know which would be better, but all property ought to be examined before an insurance policy would be granted on it.

Now, I found in my experience with the companies, that there are one or two careful companies. The Continental is one. The Home is another, and they examine into the character of the people who apply for insurance, and also they examine the property, and if I mistake not, the companies that do that make the largest dividends. It pays them to do so. Now, since there was competition rates are doubled; they are trebled, and in some cases quadrupled since this organization of the Exchange. Now, I have here—there is the memorandum of the reports for 1909 of the cost for insurance and how much they made out of it; all the companies (handing a clipping to Mr. Hurrell).

Q. Thank you. Is that all? A. No. I want to say further I think that this Committee, Investigating Committee, should recommend the indictment of the Exchange; it is a combination that is interfering with the business of the country. Insurance is a commodity the same as tobacco, sugar, or meat, or anything else. They ought to be indicted or prosecued, and if New York State cannot do it, they ought to transfer it to Washington. It is an outrage to be treating the public as they are treated.

Q. That is, you mean, if New York State cannot control it then it ought to become a national matter? A. Yes, and I would like to say further that in my opinion the greatest battle ever to be fought is to be fought in America to-day is these trusts; these covetous grasping people—

Q. (Interrupting) Of course, we won't go into the general subject. If you have anything on fire insurance we will take it, Mr. McGhie? A. I want to say that it is going to be a greater battle than that for the slavery question.

Q. We do not care to have anything else, unless it is in the line of suggestions. If you have any more concrete recommendations to offer the Commission we shall be glad to have them, as we have other witnesses waiting? A. Yes, and if these trusts are

not attended to and overruled, the people will attend to it themselves.

Mr. HURRELL: All right, sir; thank you.

CHARLES W. N. ACKBERG, called as a witness, being duly sworn, testified as follows:

By Judge BRUCE:

Q. Where do you reside, Mr. Ackberg? A. 587 Sixth street, Brooklyn.

Q. And what is your business? A. Insurance and real estate.

Q. How long have you been an insurance broker? A. 27 years.

Q. Do you now hold a license from the New York Board of Fire Underwriters? A. No, sir.

Q. How long since you held a license? A. They revoked my license two years ago.

Q. And that is a matter of which you wish to complain to the Committee? A. I do; yes, sir.

Q. Will you please state your complaint? A. For no reason at all that I know. I built up a very good business in the insurance business, and the Exchange sent me notice one day that it would not renew my certificate. I got one of the old certificates in my pocket here if you want to see it.

Q. Well, when you got that word, what did you do? A. Well, I had to continue the policies and continue the business without the commission.

Q. Well, did you go and ask why they had refused to renew your certificate? A. I did.

Q. Where did you go? A. I went to the Fire Insurance Exchange.

Q. Whom did you see? A. Saw the manager.

Q. And what did he say? A. He said that because I had happened to be translating a few cases in court once in a while I could not hold my certificate. And I was also in the employment business; employment agency business, which was another branch of my real estate business, because I happened to be in the employment business they refused me my certificate.

Q. And what did they do? Did they insist that you should give up your whole time exclusively to fire insurance business? A. Yes, sir.

By Chairman MERRITT:

Q. Are you in the real estate business, too? A. Yes, sir.

Q. Wasn't that the reason why they refused to renew the certificate? A. No. They would allow me to remain in the real estate business, but not in the employment business.

By Judge BRUCE:

Q. Then you could conduct real estate and insurance, but not insurance and the employment bureau? A. Yes, sir.

Q. And why did they say they made any distinction? A. Well, they said that was a rule of the Exchange.

Q. Has your certificate ever been renewed? A. No, sir.

Q. And how do you place your risks now? A. Well, I give it to the companies and they renew them, and I go without the commission.

By Chairman MERRITT:

Q. Do you get any new business? A. Oh, yes; yes.

Q. But you do without the commission? A. Yes, sir.

Q. You must be a pretty popular man in your region? A. Well, I have a large established business, and have a large office in Brooklyn; in fact, I have three offices, two in Brooklyn and one in New York, and I did not want to let the insurance business go. I hope that some day the Insurance Exchange will change their mind, or a law might be changed in favor of the broker.

Q. Did you conduct all these various enterprises at the same time for a long while before they raised this question? A. Yes, sir. I was in the employment business twenty-seven years ago. That is one of the branches of my business.

Q. And you tacked the insurance on afterwards? A. Yes, sir.

Q. And the real estate business was the result of the two? A. Yes, sir.

By Judge BRUCE:

Q. And for how many years did you hold a certificate from the Exchange before it was canceled? A. Ever since it was established, up to two years ago.

Q. Is that the first time they had ever made any complaint? A. Yes, sir. That is the only time.

Q. Did they send for you to come over to the Exchange, or did they write you telling you they were going to refuse to renew your certificate? A. When I made application for renewal of my certificate they refused to do it.

Q. That is the first you heard anything about it? A. Yes, sir.

By Chairman MERRITT:

Q. Is there anything in the form of the application which they claimed you did not fill out? A. No, sir. I signed the iron-clad rules they have here. I will show them to you.

Q. What I had in mind was this: It was said somewhere in some place that sometimes applications were made which did not contain all the information. That is, for instance, in your case, supposing you had not stated you were in the employment business, but had left that out? A. No, sir.

Q. Your application contained all the information, did it? A. It did; it did. Here is the cast-iron resolution on the back of this.

By Judge BRUCE:

Q. Yes. We have had those spread upon the record. You refer there to the two pledges you have to sign? A. Yes, sir; two pledges.

Judge BRUCE: Is there any other person here who has any complaint they wish to make to the Committee as to treatment they have received from the fire insurance companies?

Mrs. WIDENER: I ought to have said that that building that was complained about is ten or twelve feet away from mine. I did not state that.

A. H. Wray, called as a witness, being duly sworn, testified as follows:

By. Mr. Hurrell:

Q. I may say, Mr. Wray, the Committee called you a little out of place as it was meant to put you on after Mr. Stoddard had been on, to finish putting before the Committee the way the insurance companies conduct their business before the question of Exchanges and things came up. I may explain to you that Mr. Brown informed the Committee in detail as to the machinery which an individual company has to have in order to do business. Mr. Stoddard explained how the companies used that machinery in getting business; that is, in writing contracts, and we would like to have on the record, so as to make it complete, a statement from you, as coming from the companies, of the methods that the individual companies follow in adjusting losses. So we will assume that a policy has been written — take your own company as typical — a loss has occurred under the standard fire policy with all its conditions, and will you explain, please, the ordinary action of the company when a notice of loss comes in? A. Notice of loss may be received in various ways. Whether from the assured or claimant direct, or from the agent or a broker, no matter how the company receives a notice, and takes action by sending someone to investigate, depending largely upon the size of the claim. If it is in the city of New York, for instance, where we have a salaried man engaged in looking after such matters, and a small matter we send him up promptly, and they soon arrive at a conclusion, personal property, especially. If it is out in the country a distance, in an agency that may have possibly the traveling adjuster, he will be sent as soon as possible; or there are adjustment bureaus organized by the companies for the looking after the losses. In the interest of economy they might as well notify that adjustment bureau and they take charge of it as soon as possible. I say as soon as possible, because we sometimes have more than one loss a day; nearly always, for that matter, but those representatives, from whatever organization, whether the company itself or a bureau, visit the scene of the loss.

If it is a stock of merchandise they will ask for the books of the store; go over them and reach with the merchants the amount of

the loss, and in most cases they do that without difficulty. If it is an important manufacturing establishment, these adjusters do not know enough about large buildings or machinery, especially of special parts, and the man who owns the property does not know the result of a fire. Of course, he is ignorant of conditions except in proper order, and an appraisal is asked for. Very rarely that appraisal does not result satisfactory to both parties. If it is unsatisfactory, it is in a majority of cases to the company, and the companies are accustomed to that.

Now, when the losses are arrived at, the amount of the claim, the contracts provide for proofs of loss to be prepared and submitted to the company, upon which the company under its policy conditions, have sixty days in which to settle; to pay up those proofs of loss. If prepared at the time by the adjuster or the agent helping out the assured, and being received by the company and found satisfactory, most companies to-day pay immediately and do not wait the sixty days.

Q. Is it the custom to take the one per cent off? A. Not by a majority of the large companies at least to-day. That has been a prevalent custom for a good many years, and, per annum, it amounted to a considerable sum in the reduction of the amount paid out for losses.

Q. That is, I mean by that — so the record will be made clear — it used to be the custom of the companies to deduct, upon payment, one per cent for cash? A. Yes, if the claimant wanted his money at once, why the company would give it to him, less one per cent; at the rate of six per cent per annum, or one per cent for sixty days, but there is very little of that done now by the larger companies at least. Of course, there is more or less. That is the only method I can think of, Mr. Hurrell.

Q. Well, you require these proofs of loss on every claim that is settled? A. Every claim; yes.

Q. And where you have difficult losses, you, of course, employ different appraisers who are expert in their various lines? A. Yes, sir.

Q. Now, I have referred to the standard fire policy as being quite full of technical conditions which, if the company sought to take advantage of them, would result very often in defeating claimants? A. Yes; sometimes.

Q. Well, what is the custom among reputable companies in their treatment of claimants under the policy? Do they insist upon all of these conditions being fulfilled to the letter? A. They do not. Insurance companies act very much as other business men do. They act fairly, or there may be instances where they do not. There is not any difference in their treatment of insurance business than any other business. These technical conditions in the policy are protective. They are not taken advantage of with an honest loser. Instances can be related innumerably. They could be related where companies do not take advantage, but if the assured is absolutely dishonest or if he is beyond reason in making a claim, the companies vary like other human life, will take any advantage of any technicality to leave them out. They would not otherwise.

Q. Now, take the condition, I don't know that it is a condition, but take the situation, very often where small householders move around in a large city like New York, in order to keep a contract in force, the company has got to have notice of the change of location, isn't that true? A. Yes.

Q. Now, is it very common for losses to occur where notice of the change of location has not been given? A. Quite common.

Q. And what is the uniform practice of the companies in regard to such situations as that? A. They pay the loss.

Q. As a matter of policy, I take it? A. Call it policy or fairness. The conclusion would be in the mind of a fair-minded company or man, I think they are fair minded, that if the property owner properly informed the company and sent his policy down to have it endorsed for transfer, the transfer would be granted; therefore, they assume that all that has been done, and they pay the loss. We might not do that to a manufacturer or a predatory wealthy man, but I mean ordinary people, to whom a loss is important.

Q. What is your practice in this immediate settlement of losses in fire marshal States; do you—. As I understand, the fire marshal laws of the various States, it is that every fire must be investigated? A. Yes.

Q. And the insurance companies are not to pay the loss until the fire marshal makes his report? A. I do not think that is universal.

Q. Do you know of any State where that is the rule? A. At the moment, I do not.

Q. Of course, this Committee, as you know, is sitting for the purpose of investigating the method in which the business is done, and will eventually submit its report to the Legislature? A. Yes, sir.

Q. Have you any suggestions which you can make to it which you think would be helpful in securing better conditions? A. I am scarcely prepared; I have not come loaded to make suggestions. I would make the suggestion that the companies be let alone, be considered as being honest fairly operating business men, as fair, perhaps fairer, than the average business man.

By Senator Wagner:

Q. Your suggestion is that we do not have any legislation? A. I think if this Legislature did not meet more than once in ten years it would be a great deal better for our business, regardless of what it might be for others.

By Chairman Merritt:

Q. That might be if you were the only people in the State, but very likely there are other people that need it? A. That may be very true. We have too many laws.

By Mr. Hurrell:

Q. What is your opinion of a State fire marshal law, if you will answer the question? A. I think the investigation of fires by State officials is beneficial beyond doubt. Of course, my information is colored somewhat from the fact that the States invariably make the companies pay that expense, and as the subject of expense is a burning one now before all Legislatures, that gentle objection to expense by making us pay for the fire marshal is noteworthy.

Q. You have a city fire marshal here, do you not? A. Yes.

By Chairman Merritt:

Q. Do the companies pay him? A. No, not the city marshal; the State fire marshal they do.

By Mr. HURRELL:

Q. You meet the fire marshal in his activities, do you not, upon the settlement of every loss here? A. No, very rarely.

Q. What does he do in the city, for instance, that benefits the insurance companies or the public? A. I could scarcely tell you in detail. In a general way, if the companies interested in a loss were supicious they would call upon the fire marshal to get his judgment, have him investigate, but that he takes action without any such request, I do not believe; he may on occasions, but I do not believe he does.

By Senator WAGNER:

Q. You mean to say the fire marshal makes no independent investigation? A. I say I do not know; I don't think he does.

Q. I think you are mistaken? A. I maybe, I never heard of him anyway.

By Mr. HURRELL:

Q. I omitted to ask you what companies you were connected with? A. The Commercial Assurance Company, Palatine Insurance Company, and Commercial Fire Insurance Company of New York; it is all one concern.

Q. Your companies are members of the Fire Insurance Exchange, are they? A. They are.

Q. Do your companies keep a classification of their losses? A. In a way, yes.

Q. What is that, in a way? I will ask for more particulars; how large are your classes, into how many is it divided? A. About eighty.

Q. And do you find that the results of classifications aid you in determining whether certain rates are too high, or whether certain rates are too low? A. We do not go in our company particularly closely, except as to results generally; not as to the risk itself.

Q. You are speaking of localities, or how? A. Localities; and as a class; if a certain class during a period of years shows profitable results, we note that, of course, and the reverse, but if the reverse

is true, and we lose money every year, we do not decline always to insure those properties.

Q. But you get away from them if you can? A. Yes; we minimize our carryings of course on the unprofitable ones.

Q. And the reason you take what you do is largely because of the way the business is done through local agents? A. We have to do the business as a whole, yes, through local agents.

Q. Have you ever been an officer of the Insurance Exchange here? A. No; I might have been on some committee, possibly.

Q. That is what I meant, whether you had ever served on any committee? A. Yes, sir.

Q. Do you consider that the rates which the Insurance Exchange makes the city over, are fair? A. I consider that that is their effort to make them fair, yes; they may not be in all cases absolutely fair. There is no scientific possibility in making rates that cannot be combated, cannot be attacked. I have often noticed insurance in our own companies where I thought the rate was perfectly ridiculous, too low. Now, it might be that, on the other hand, some of them are too high. It is a pretty large subject. No single individual could determine that. We write insurances on risks in this city at rates which do not appeal to me as being fair, but we defer to the supposedly better knowledge of the engineers in the Exchange in charge, the inspectors. They name a rate and we assume that is the best they could do, and the rate might be one per cent lower than my guess would be because it is a guess largely anyway, but I take it, trusting to them.

Q. Well, do you believe that this matter of rate making — a great deal has been said about rate making here. Do you believe there is any system whereby the rates can be more equitably adjusted than they are at present? A. I do not.

Q. Do you believe that if all of the companies belonging to the Insurance Exchange should contribute, or should first agree upon a uniform classification, and then contribute their experience, that the rate committee or the inspectors, or the raters of the Exchange, would be helped by the results of that combined experience, covering a sufficiently large period of years to give a good average? A. I do not think they could as a whole. They might in certain instances. There are no two risks exactly alike. Each one differs

from the other, and it is absolutely impossible to lump, to gather together experience on certain classes, because the few black sheep among them, carelessness being present in different risks, would affect the entire class, but taking the entire class as a whole, if it results fairly satisfactorily, there is no disturbance growing out of it, but it is not possible to bring together by classification any set of figures that would give a scientific basis; it is not possible to do it.

Q. Of course, you do agree then, as I understand it, that the results of a class as a whole would be useful in determining whether the rates charged over a period for which the classification is in force, had been deficient, or had been excessive? A. Well, simple classes only, I should say, or the high grade constructed buildings, of certain hazards protected by sprinklers, and even there, there is a great diversity of opinion.

Q. What would you say, for instance, as to the dwelling-house class? A. Of course, that varies largely, as it does not take an insurance man to know, but it was found in this city years ago that the rates on dwellings were returning such enormous profits that they were cut in more than half, to insure, cut to one-third of the previous rates, and they run to that now.

Q. Do you recall the rate here, for three years, of dwelling house property in New York city? A. I think about sixteen cents for three years on a building; I am not entirely familiar with all details; not more than twenty cents for three years.

Q. Do you know what the results of even that rate have been? A. Yes; they are profitable.

Q. What do you think, Mr. Wray, about the justice of reducing those rates still further, and lessening the burden on the dwelling house business which it must be carrying if it is returning too large a profit, lessening the burden which they are carrying for the business risk which is rated too low. A. I think it would be very desirable to reduce those rates, as all the necessaries of life should be supplied at low figures. Your sugar and your butter and all that sort of thing. It comes under the same heading. But I should like to have this Committee raise the rates on the mercantiles, on which we do not make any money. They might have a very enjoyable time pushing those rates up. There must be a profit somewhere in the business, and there is not any profit in the mercantile end of it; do

you see the point, because that is the line which is the subject of these tremendous conflagrations.

By Chairman MERRITT:

Q. What has produced these very low mercantile rates? A. Very low.

Q. You say they are too low? A. I say they are too low to give us a margin of profit on that line of business. Every man feels his insurance is a tax, the merchant as well as everybody else, for all he charges it back in the business. No matter what he is selling, if he is selling cotton, no matter what, still he objects to the rate. He objects to every thing. I do, too. We all do.

By Mr. HURRELL:

Q. I suppose also you were subjected to greater pressure from the individuals where the premiums run into large sums? A. Yes.

Q. I would like to ask you what you think of this idea: The thought has been advanced here several times substantially as you have put it forth, that there must be a profit in the business somewhere, and the similarity of the grocery business where a man sells his sugar at hardly any profit, and his box of pills at a very large profit, has been suggested as a like situation to this, but there is this difference, that the groceryman if he should combine with all the other grocerymen in the city to put up the price of sugar, or to bring down the price of pills, would be attacked by the Attorney General very probably, as being an organization in restraint of trade. Now, is there any special reason why the insurance companies should be permitted to do, in selling their commodity or contracts, what would not be permitted to a groceryman in selling his? A. It is not for me to answer your question by a question, but if you would permit me, I would like to ask you if you don't think the wholesale grocers combine and fix those prices where you can get a pound of coffee from one grocer for one price, and you cannot get the same brand of coffee from another grocer at any less. But it is a fact, there is combination in everything as you realize. Now, as to the companies; in the interest of the property owner, if these companies are not allowed a good deal of discretion,

a good deal of latitude, and treated as fair operators, you won't have very many reliable insurance companies left. Those few that would be left then would demand any rate they chose, and they need not combine; they would get it. People must have fire insurance protection. Now, the combination results in lifting up the little company. The more difficult you make this business to transact, the worse it is for the little company. You cannot pass any laws or any restrictive measures that will stop my company from doing business; it is too big, but you can stop a whole lot of little ones you don't care to kill.

By Chairman MERRITT:

Q. What part of the benefit derived by the companies in the combination known as the Fire Insurance Exchange, is the regulation of commissions, both of agents and brokers? A. In what sense?

Q. I say, as I understand it, through the Exchange the commissions of agents and brokers are regulated as a part of their membership? A. Yes.

Q. How much of the benefit of combination does that uniform policy represent? A. That is intended to hold in check unfair competition and discrimination. The large property owner. The State of Texas has passed all sorts of queer laws to do away with discrimination, upon the ground that the large insurer got the best of the small insurer, having large premiums to give out, he could get a cheaper rate or a greater rake off from his broker or his agent. The broker who receives a brokerage, not the agent, but the broker, from the company, of say ten or fifteen per cent, is tempted by the man who gives him that money to divide his brokerage with him. That property owner then gets his insurance cheaper than his next door neighbor who has not sufficient premium perhaps to pay to induce a broker to bring about competition, besides which the thought of protecting the brokers one from the other — brokers are constantly fighting for each other's business — and if a broker can induce the assured to accept one-half of his brokerage, the other man working on a different line will lose that risk probably, will lose therefore, so much of his income, and it was understood by the brokers that if we would protect

them they would endeavor to have the Exchange rules observed in all particulars; the stopping of all rebates; we have no law in this State against rebating in fire insurance, while you have in life insurance, and that was simply a measure in the same direction to stop the rebate. That is the reason of the pledge of the broker that he would not rebate.

Q. I never can get into my head clearly the objection to the rebating end of the business? A. I quite understand that. There would not be any objection to me, if I buy anything, getting a discount, I like a discount; everybody does, everybody likes to get a rebate. But when these brokers are asked to work in the interest of the companies, as well as their clients, they ask us to protect them, one against the other, against the unfair competition of the man who gives away. The ordinary broker in New York, the average broker, does not make more than a living out of his business; there are a few great brokers who do make very handsome incomes, but they are very few. That is true in any line of business, a few get most of it; and the rebate is simply a measure of secret competition.

Q. Then as a disturbance of the business itself—it has no relation to the assured whatever, really it don't make any difference to them? A. No, in a way it does not.

By Mr. Hurrell:

Q. Have you lived through rate wars in New York city? A. Several, yes.

Q. Now, can you tell us what the difference was during the time that rate wars were in progress, both as to the companies and the public, than it is now with such a harmonious condition existing, as does exist? A. Well, the last rate war we had was in 1898; then everything went by the board. Some companies, large ones, refused to accept any business whatever below a certain street, which might have been 23rd or 34th street, any mercantile business, or manufacturing business unless at the rates they had been receiving before; but there the human factor comes in again; a great many companies thought there was an opportunity to very largely increase their holdings, their connections, for the future, and they did take a lot of business. We occupied

for my company the middle ground. We sought select business, and did quite a business. The next year we paid for it. We did not get money enough; and the next year our losses were heavy in the city of New York, and after the rates were re-established, the new organization, the connection we thought we had made for the future, all left us and went back to the other companies. I speak of that simply to show this: If you have another rate war here a majority of the large companies will stand pat and refuse to insure at all in the business districts of New York unless at present rates. Now, there is the great section for competition, the congested district of New York, where these immense values are, and it would injure those people. They could not get my policy; I would not issue it, unless at present rates.

Q. That is, you mean that is the section wherein competition would be fierce? A. Yes, it is where so great values are, anywhere from Fulton street to Fourteenth street.

Q. Were there any companies who withdrew from New York altogether in New York? A. Oh, they suspended business, certain companies.

Q. I mean withdrew from this field? A. Yes. Any of them, I assume, would insure the up-town dwellings and the small properties.

Q. Will you work out how it appeals to you as affecting the insured more specifically? A. I say, in that way, if the large insurers could not obtain satisfactory insurance at the competitive rates, they would not be insured perhaps, financially, but they would have to secure most of their insurance, I should say, that would be satisfactory to them at the old rates. Then it might be that the companies would kick back and demand a little more. I think I should, if I were to be denuded of my income in the city of New York, and there were a lot of people that had to have my policy, I don't know but what I should tell them they would have to pay for it.

Q. And what would the effect be on the small companies? A. Unless we had a period following the year of demoralization, when a kind Providence kept off the losses, they would go to the wall; they would have to if they took that business.

Q. That is what I am getting at. Ordinarily, is this true, in

a period of competition right in a congested valued district without any agreements as to commissions, to say nothing of rates, that a small company in order to get a large amount of business written, is apt to come in and bid up on commissions in order to get risks? A. I don't think they would do much of that; no, they might cut rates. Where there is no agreement as to rates, they would probably cut the rates somewhat, but I doubt if they would pay any more commissions or brokerage.

Q. Your company is a member of the Eastern Union? A. Yes, sir.

Q. And that deals to some extent with the question of commissions, does it not? A. Outside of the large cities, yes.

Q. There has been complaint made that the expenses of conducting this business are excessive. Will you state what the experience of the companies in the Eastern Union is as to this question of commissions on the local agents? A. The experience of companies in the Eastern Union—there are only forty of them, as against a good many more than one hundred outside—has been that in all the small places, Potsdam, and a few other places, the better class business, that is, that class of business from which we hope and usually do reap a profit, is taken away from us by bids from this large number of companies outside of the Eastern Mutual at higher rates of commission to the agent. Those companies have succeeded so well that they hold a majority of the more profitable classes in most of the small towns, and the Eastern Union companies have therefore been at a disadvantage in securing that class of business.

Q. Now, one of the purposes of the Eastern Mutual — is it or is it not one of the purposes of the Eastern Mutual to regulate that commission question so as to keep the commissions down? A. The purpose of the Eastern Mutual, its basis principally was to pay not exceeding fifteen per cent, to all those agents, and they have adhered strictly to it as far as human beings adhere to anything strictly. There has been very little departure from that for a great many years, but the time will come when they think it is a good plan to meet the competition of this other large number of companies, and the agents' compensation is going to be raised. They are the only class of people that for fifty years have not

had any increase. Fifteen per cent commission was paid to the agents 48 or 50 years ago. They have never had a dollar raise, and every other wage earner has in every line of business, so that where this Committee or any committee may consider that there was too much money being paid to the agent, it is fair to consider also that they are the only people who have not had an increase in their income from this business in all that time, and in an ordinary sized community where agents have multiplied, no agent becomes very wealthy out of his insurance business; he makes a fair living, but as agents multiply he has had to divide it.

By Chairman MERRITT:

Q. There has been some increase in the aggregate amount of insurance? A. There has been more increase in agents than the increase in amount of insurance.

Q. And a greater increase in capital? A. More companies have engaged in spreading and extending their agency system, yes; there is scarcely a town, well, 10,000 people or less, but what there are probably three times as many companies there as are needed to carry safely that business. That means a great many agents and a division of the income among all those agents; and the agent who once controlled all of it got almost as much income thirty or forty years ago as he does to-day; he has not had a chance to increase his income at all.

By Mr. HURRELL:

Q. What new scale did you adopt in the Eastern Mutual? A. 15, 20 and 25, which is so near as can be calculated, the resultant cost to the companies of 18 or a little less than 18 per cent.

Q. Average? A. Yes.

Q. You make that total expense by adding three per cent additional? A. Yes, but it is proposed to save at least five per cent in the large cities where the largest amounts are.

Q. Have you any contingent scheme of commissions? A. No.

Q. I noticed you were present yesterday when Mr. Waters was testifying? A. Was preaching, yes.

Q. That in his judgment the contingent method of paying the

agent was the only scientific method, and the only method in which you could get the local agent interested in the success of the company? A. But you did not ask him what his compensation was; he is paid on a commission basis, and he has grown wealthy out of it. If he was paid on the contingent basis, he would not every year have so much. He did not dip into his own personal rates.

Q. Do you know what his commission is? A. I do not. I think it is fifteen; I don't know.

Q. Out of which he pays all his expenses? A. His expenses are comparatively low; seventeen and a half he says it cost him. I never knew what it cost him. I did not investigate it.

Q. But coming back to his theory, nevertheless, no matter what he makes, what do you think of that idea of connecting the local agent by his interest with his company so that he won't write a lot of bad risks, or over-write good risks? A. As you are born, so you go through life. You don't change nature. You may discipline it. You may surround it with restrictions of all sorts, but you don't change the child's nature. I think you will agree with me on that. Therefore, the agent cannot be changed by changing his method of compensation. Every agent who has got a rotten old saw mill or wood worker or furniture factory on a running stream of water in his village, that has not burned for fifty years, cannot understand why a company won't insure it; it never has burned; the man never has called upon the companies for a dollar; why shouldn't you take it, notwithstanding the underwriter sees hazards present, and sees only a kind Providence, or a careless Providence, that has allowed that thing to run all those years. That man will insure it. You can put him on contingent or anything you like; it doesn't make any difference to him.

Q. Wouldn't his point of view be that of an agent, if he knew that in insuring a risk that looked to be so hazardous, he might endanger his own income? A. It does not look so to him. He believes in it. He believes the old barn that is moss covered from top to bottom, and the sills rotted, and all that sort of thing, he believes in it; it has not burned. It answers the farmer's purposes. It is just as good. He will insure that. Contingent don't change him.

Q. You spoke of the situation in Texas a few moments ago. Are your companies admitted to do business in Texas? A. Yes, sir.

Q. Can you tell us anything about the situation there for the last two or three years? A. I can tell you something of the loss record. The situation has been very mixed, and unless companies indulged in very rosy hopes for the future, there would not be one of them stay there.

Q. What are their rosy hopes now regarding Texas? A. There is not anything specially rosy as to imminent legislation, but I mean as to what the results of the State might be for future years.

Q. You mean so far as your loss ratio goes? A. Yes, the lost ratio last year, I think, was seventy-nine per cent, for all companies, seventy-one or seventy-nine per cent.

Q. Did your companies withdraw from Texas, after some of the recent legislation down there? A. No, sir.

Q. Can you tell us anything about that; we have not had that explained by anybody who has been through it. Do you know anything about the system that was put in operation there by the State, as to rating by the State Rating Bureau? A. Well, something, but it would take a good deal of time to go into the whole thing. The State created a rating board. The insurance agents apparently thought that would be a good thing for them, because rates would be fixed and there would be a cessation of competition; there had been free competition before. The State has an Anti-Compact law on its books preventing combination of companies. It is a pretty large State, too, and very difficult in getting over rapidly, without great expense, and a large number of employees as compared with any compactly built State like this. They created a State Rating Board, but they allowed the companies to prepare schedules and fix the rates which should be subject to revision if necessary by that board, one of whom was the insurance commissioner.

Q. Was that Love or his successor? A. That was Love. The companies employing a man who had supposedly large experience in the making of rates, and he employed about 70 inspectors.

Q. Seventy? A. Seventy. It cost the companies about $250,000 to comply with the State law, which in six months was

done away with. A little matter like that don't count, but it is an expense to the companies. Those rates were made on a scale which had been submitted to the Board of Trade They didn't know anything about it anyhow. That schedule turned out. The effort was to stop discrimination. A man who might have a manufacturing establishment very similar to another in some other place, and this man got a rate perhaps for a smaller consideration. Perhaps a little larger values, more permanent and so on; and there was great complaint among the smaller manufacturing establishments that the bigger ones were getting better rates. This schedule was to apply impartially, but it turned out, in my opinion, that certain classes of risks, in frame towns were rated up five times what they had been written for before. And there was general complaint. Everybody whose rate was raised from the old competitive rate complained anyway. Those rates are still in existence, no company permitted to write at any rate lower or higher, or to make an endorsement, except on very onerous conditions. But on the 10th of December that law goes out of existence, and the new schedule, which it is hoped will be proper, and a new board takes hold. The conditions will be changed somewhat, I don't know to what extent. It is pretty hard to tell. As a result of that we have gone out of about eighty agencies. We would not bother doing business all over a great State with laws that it would seem to me if we didn't violate them we were mighty lucky. The agents were forbidden to rebate; they were forbidden to discriminate; and every risk had to be rated according to the schedule, and that schedule submitted to the company. It would be a very remarkable thing if the agents didn't violate that condition. As for our company, I wouldn't take the chance except in the larger cities, the larger places where the agents naturally have a little more experience, if not more intelligence.

By Mr. Hurrell:

Q. Do you know what the difference is between this board which takes hold on December 10 and the old one that is going out of existence on that day? A. Practically no difference. In their powers, you mean?

Q. Yes, and in their methods. What I was getting at was, whether there had been a change in the character of the legislation,

or whether it was a new board, or whether the Legislature had told the old board to adopt a new schedule, or what was going to happen? A. They amended the law at the last session, putting this part in it affecting the adoption of a new schedule, raising the rate of basic figures, I believe something in that line; I am not particularly clear.

By Chairman Merritt:

Q. You have spoken of the expenses of all these things being assessed on the company. Supposing any attempt were to be made along that line at all, would you rather have the expenses charged to the companies, or paid by the State? You have had both systems in your State. A. Both systems, how do you mean?

Q. In various things, for instance, the Public Service Commission is paid by the State and has jurisdiction over things with which you are familiar. The banking department and the insurance departments still assess the companies. I suppose it is what is left of the old-fashioned method of farming out the taxes. I don't know the history of it. A. The insurance department simply assesses the companies for certain fees, which are not enormous, and the taxes on the premiums of the companies; that is all. That is enough, but then that is all there is. No other expense is assessed upon the companies. Of course, that is a large question, Mr. Merritt. I should say, whatever the State wanted to do it should pay for, not collect, not assess the companies indirectly. If it is necessary to assess any branch of business directly everybody understands what that means.

Q. In other words, you believe the people should pay their taxes, and the State should pay for what it wants to do in that line.

(No answer.)

Senator Wagner: As a matter of fact, the people will pay in the end, won't they?

The Witness: The people expect to have it landed on them in the ends, yes. It all comes down to that. If you tax a householder, a house owner, he don't pay that tax; his tenant pays it, if it is a properly managed concern, of course. I am renting a house up town and I am quite sure I pay the taxes and the interest on the fellow's mortgage too. He don't pay it.

Q. There was a cynical remark made a good many years ago

when the railroad commission was established in this State by a certain railroad president, you no doubt know of? A. Yes.

Q. You are probably familiar with that? A. Yes, I remember it.

Q. That is what I had in mind. A. I don't quite see the application, Mr. Merritt.

Q. I was talking of Texas. A. You remember Sheridan's remark about Texas?

Q. In other words, if anything of that kind were ever to be done it ought to be done by the State, and paid for by the State, and the companies should not be assessed? A. No; the State should pay for everything it wants done, and get its money in its own way. Tax the companies all they like, if they please, insurance companies and other people, but don't say we must write, under certain schedules, which shall be approved or otherwise, by a State board. That these rates must go into operation, as Texas said in a certain period, and it cost us there $250,000. What did they care for that? If the State had paid it out they would have taken a little longer perhaps, and a little different method.

Q. And been a little more considerate? A. Yes. And then it was all kicked over in six months.

Q. Would the effect of fixing the rate by law—for that is what it amounts to—what effect would that have on the consideration of the moral hazard in all these risks? A. The moral hazard?

Q. Yes. A. Nothing has any effect upon that, sir.

Q. What I meant was in cases of that kind, under this scheme of this schedule of rates fixed by commission or by statute, so that the companies could not discriminate anywhere, even where they thought a man was a bad risk, or his property was a bad risk, because of the character of the owner of it—I don't know that you do discriminate, or change anything specifically for moral hazard—but it makes a difference in the business? A. We don't charge for moral hazard. We can't estimate that.

Q. In these twenty odd States that have operated under that sort of thing, they do not operate there as a public service corporation, do they? A. No; there are two different sorts of public service. The commission deals with railroad companies that supply something that is a necessity to the people. We don't. Nobody is compelled to take insurance.

Q. Nobody can get along without it, Colonel? A. That is another story; they are not compelled to take it. Or, as Mr. Waters told you yesterday, he could get along without it or he could insure in the mutuals, or insure, as he does, you insure me and I will insure you, that is the way he does with that beneficent organization of his. Then there is those beautiful mutual arrangements. I don't want to take your time.

By Mr. HURRELL:

Q. I was going to ask you whether the stock companies had any objection to them entering the State? A. Not the slightest. We would be glad to have them enter this State and be put under the same rules we are. Mr. Topham said the other day, and Mr. Freeman, or both, in answer to your questions, that they didn't solicit business; it came to them. You remember?

Q. Yes. A. Mr. Roosevelt would characterize that statement. I won't. They are very active solicitors. They have a corps of inspectors. They insure large numbers of mills in this and every other State. He said also their business was largely confined to New England. That is a circumstance. They are raiding the South where large numbers of cotton mills have been established with New York and New England capital.

By Chairman MERRITT:

Q. I suppose a large volume of scattered interests is as much to their interest as for any other companies? A. Very much better. Their business is largely that of specialists. The same with Mr. Waters with his individual underwriters. They won't insure the little bakery, the barber shop, or the meat shop; they don't touch that sort of thing and we have to take it. We don't say we don't want to, but I mean we have to take business as a whole. Those companies are the protectors of the people as a whole. Those people direct their energies, all their efforts, toward a special line. And when they say that the insurance costs, as Mr. Westover did,—I have read his testimony, some of it—cost him 4 1-2 per cent last year—the General Electric Company—they don't tell the story as a whole. I think you gentlemen un-

derstand it, but they don't take the trouble to tell you. They pay a dollar per hundred in the first place; they also incur liability, as a member of that mutual organization, in case something untoward should happen; their liability on their notes; and at the end of the year, if the business has turned out as they anticipated, a dividend is paid him, so they say it costs 4 1-2 per cent a year because at the end of the year he does not count the interest on the dollar he has paid, but he gets 95 1-2 per cent dividend. That is the result of very large investments. Of course these leading manufacturing mutuals of New England invest largely, and retain large funds, as do all stock companies. There isn't the slightest objection in my mind to the mutuals being formally and properly admitted to this State or to any other State, but up to this time they have escaped taxation.

By. Mr HURRELL:

Q. Of course, they have had to pay their Home State? A. Not on the business they write here, not at all. In Massachusetts they pay on the business written on Massachusetts property, that is all.

Senator WAGNER: I believe they pay on the total amount of premiums.

The WITNESS: No, they do not.

Q. I think the evidence is they pay on the total premium income and deduct taxes paid to other States? A. That is news to me, if they do. I am not a mutual man; I am not sure about it.

Q. They pay 1 per cent of the gross premiums? A. I have always claimed that if they came in here and got business here, as they do, they should pay taxes like the stock companies.

Q. As I understand it, your point is they are paying taxes in Massachusetts, and doing business in New York, and New York is not getting its share of the tax? A. If they are getting the business here they should pay here.

Q. Using the term you used a moment ago, "raid," I suppose that is a word that you happened upon; I don't suppose you object to their going out after factories all over the country? A. I

object to every competitor, but I have no right to object to them. I would like to have it all myself, of course.

Senator WAGNER: Mr. Westover testified of the experience of his company, which was that for the last sixteen years, that the rate which they actually had to pay is considerably less than they had to pay previous to that time to stock companies? A. Yes, that is true. But you must remember that the mutual companies theory is to have a risk entirely anl thoroughly protected with a sprinkler system, and they lay out the plans for it; they inspect that risk every three, or at the most, four months. Their inspector goes through. That means a solicitor, too, by the way, always. If there is a risk across the street, or in the next town, he goes after it and sees if he can get it; although they don't ask for business, Mr. Topham says. Now, that group of risks, of the General Electric Company, before the mutuals took it, was not thoroughly sprinklered, thoroughly protected, and the stock companies had it at a rate they thought was proper, and if Mr. Westover, and others, had listened all that while to the association of companies, called the Factory Association, or had gone to them and asked them to look into it, there isn't any doubt that a rate would have been given to him which would have resulted in very little, if any more, very little more probably, than the resulting rate from the mutuals, and he wouldn't have had any liability either, I mean by that any liability of the mutual company; there may not be any liability if they confine their operations to certain risks, but if they go into congested centres they will have liability, beyond question.

Senator WAGNER: Do you encourage your policy holders with automatic sprinklers?

The WITNESS: All our schedules point the way to putting in sprinklers.

Senator WAGNER: I asked that question because we were told last night in Mr. Waters' evidence, quite to the contrary.

The WITNESS: Mr. Waters told a great many strange things, I think. I listened to him. We have an association of companies called the Factory Insurance Association. You have probably heard of them. That concern is going about just as the mutual does. We are fighting the mutuals tooth and nail.

Q. But the mutuals really forced the stock companies to do that; isn't that a fair statement? A. Oh, they may have taken the lead in that, yes. They were the first. Atkinson was the great liberator; he was the first man to advocate catching a fire in its incipiency and putting it out by the use of sprinklers.

Q. I would like to ask you, as a final question, this: You must be aware that there is considerable agitation upon the part of the public against the way the fire insurance companies in New York city and in New York State control the situation, making the rates, and saying who is to write the business, and who is not to, etc. Now, that is the situation this Committee is dealing with. I would like to ask you if you have any suggestions to make as to what this Committee could recommend to the Legislature by way of easing off this situation? A. I could not suggest anything, Mr. Hurrell.

Q. It is true that the companies do control the fire insurance situation? A. In this city, not in the State.

Q. Well, in this city? A. In this city.

Q. That they have the situation now so well in hand as to make the rates? A. True.

Q. And to arrange the conditions under which the brokers must write the business? A. That is true.

Q. The charge is made that it is a trust, and in that sense that they have the whole situation in their control; it is a trust? A. I am not replying to that, I am listening.

Q. I am not asking you to. Would you rather, as an insurance man, have a commission of the State government appointed to take charge of this, upon the theory that a free competition will destroy the companies ultimately, or, on the other hand, that things left to themselves, people in many cases will get a rate that is extortionate or seems to be extortionate, and therefore the State had better take charge; do you think that would be better than the passing of an anti-compact law in this State? A. I do not; I would much prefer the anti-compact law.

Q. Don't you think the companies would be in a better position to answer, this Committee, for instance, on the question of whether their rates are fair, if they had their experience made up so that they could come before the Committee and say the rate on this class is so and so, because experience shows that the loss has been on this

class, so much, and all that sort of thing. A. I do not; I don't think so.

Q. Don't you think that the losses upon a given class, or in a given community, for instance, plus the expenses, and a fair profit to the company, would throw some light upon whether the premiums charged were adequate or not? A. I think if you take the results in general of the companies for a long period, 10 or 20 years, you will find, not only that they are not making a fair profit, but they have made so little profit it is scarcely worth mentioning in their business.

Q. Then you, as a legislator, if you can imagine yourself in that position —— A. They wouldn't elect me.

Q. You would say the best way to treat this question is simply to leave it alone and let the complaints go on? A. Yes, I would say yes to that; but I think 90 per cent, or 95 per cent, perhaps more, of the complaints are easily explainable; that there would be errors bringing about causes for complaint; and you, quite naturally, would receive complaints and wouldn't know what it was about without investigating the other side as to that specific complaint, and you could not form a judgment.

Q. Of course, I will say for your information, that all of the complaints that have been recorded here this afternoon, for instance, we expected to ask Mr. Robb, and the manager of the Suburban Fire Insurance Exchange in reference to them before the investigation closes. A. Now, the gentleman at Rockaway. I don't know him, and he may be, or may not be, here now. I didn't hear all he had to say; but you asked my judgment about that. I don't know anything about his rate, but I haven't got a single dollar's risk at Rockaway and wouldn't have it. You couldn't form a rate down there. I don't know whether any of you have ever been there or not. I can imagine the conditions. A. The general construction of the property; you go into little crowded streets, booths on each side, and you would make sure of your exit before you got far in, I think. I wouldn't insure it at all.

Q. That is on account of the danger of conflagration? A. The conflagration hazard. Now, there is an example of a difference of judgment. Some companies take it; I wouldn't take it.

Q. You are one of the companies another gentleman spoke of as being a careful underwriter? A. I don't know.

Q. Is there anything more, Colonel, that you would like to add to the record? A. Mr. Hurrell, I cannot think of anything more. I would talk all night if you ask me questions.

Mr. HURRELL: Mr. Chairman, that is all.

Chairman MERRITT: The Committee will stand adjourned until 10 o'clock to-morrow morning.

Adjourned to Saturday, December 10, 1910, at 10 A. M.

TWENTY-NINTH PUBLIC SESSION OF THE LEGISLATIVE INVESTIGATING COMMITTEE.

ALDERMANIC CHAMBER, CITY HALL.

NEW YORK, *December* 10th, 1910 — 10 A. M.

Present — HON. EDWIN A. MERRITT, JR., *Chairman.*
HON. WILLIAM W. COLNE.
HON. JAMES A. FOLEY.

HON. M. LINN BRUCE, *Counsel.*
ALFRED HURRELL, ESQ., *Assistant Counsel.*

Chairman MERRITT: The Committee will come to order.

CHARLES A. TROWBRIDGE, called as a witness, being duly sworn, testified as follows:

By Mr. HURRELL:

Q. Mr. Trowbridge, what is your business? A. Insurance.

Q. In what capacity; as an underwriter or broker? A. Both.

Q. How long have you been in the business? A. In the neighborhood of twenty-five years.

Q. What is your firm, what is the name of it? A. We have two firms, Edward E. Hall & Company, insurance brokers, and Hall & Trowbridge; Edward E. Hall and myself as the individual attorneys for various Lloyds institutions.

Q. What Lloyds are you attorneys for? A. The American Lloyds; Great Western Lloyds; National Underwriters of America; Union Underwriters of New York; New York & Boston Lloyds. Not the Union, that has gone by.

Q. Mr. Trowbridge, the Committee has been sitting for several days taking testimony on the subject of fire insurance, and it has

heard described the methods of the stock companies, mill mutuals, miscellaneous mutuals, and the individual underwriters; and I would like to ask you to describe the system that Lloyds, so-called, follows, describing, if you will, how that name came to be applied to that system of insurance, and how it is at present in operation A. The name Lloyds originated in England. Various merchants were unable to procure all of the insurance that they required on marine business, and being to that extremity, they hit upon the plan of insuring one another; the discussion having started in a chop house run by a man named Lloyd, and it was their custom to meet there, after they had perfected their plans, at luncheon, and insure one another; one would say: I will take 100 pounds on this vessel, and another man would say: I will take 500 pounds. It was done on the plan of an Exchange or bourse; therefore a Lloyds is an office where insurance is transacted, covered, made effective, by a group of individuals operating under a power of attorney, which describes the liability, and under which power of attorney a deposit is made; and the attorneys are given various powers to bind insurance and to receive moneys and pay losses.

By Chairman MERRITT:

Q. You mean that you, as an agent or as attorney in fact, may have the power from some individual to engage him to a certain definite amount. A. That is right.

Q. In such ventures of insurance as you approve, for instance? A. That is right.

Q. And so, in that sense, you are not acting individually, but as attorney in fact for a client? A. That is right. The difference between a London Lloyds undertaking to insure a risk and the Lloyds that are operated in this country is this: Each liability of the various underwriters is *pro rata* on each risk; for instance, we issue a policy of fifty underwriters, and each man assumes his *pro rata* share of the liability in consideration of his *pro rata* and individual receipt of the premium.

Q. And you engage him for one-fifth of the risk, or one-tenth of the risk, or one-fiftieth of the risk? A. He must take his *pro rata* share; if you are an underwriter you take your *pro rata* share of the amount of insurance that we bind upon a risk. For instance, if,

with fifty underwriters, you bind a loss of $50,000 upon a piece of property, you are liable for $1,000.

By Mr. Hurrell:

Q. And that is all? A. That is all; the liability being several and individual and personal. In the matter of the London Lloyds, a man will go around to the various desks who write a group of underwriters; one group will say: I will take 500 pounds on that risk, and another group says: I am interested in that property and I won't take but 100 pounds apiece for my men. That is the difference, and the way in which liability is assumed by the underwriters.

Q. There is a difference between a Lloyds and an Inter-insurance Association? A. The difference between a Lloyds and Inter-insurance Association is that the purchaser of the policy assumes no liability beyond his claim to premium in accepting any one of our Lloyds policies, and that he does by accepting the policy of the Royal or the Liverpool; he buys our indemnity the same as he buys indemnity of a stock company.

Q. That is, the Lloyds is simply a group of individuals going on the risk instead of a stock company, whereas in the inter-insurance arrangement where individuals sign a policy the insured is also insurer of the other risks of the individuals who sign his policy; that is the distinction, is it not? A. An individual underwriter concern as such requires that an assured must become a subscriber to that individual institution; in ours it does not.

By Chairman Merritt:

Q. Then so far as you are concerned the word Lloyds applies to the organization of the insurer and has nothing to do with the insured? A. Absolutely not.

By Mr. Hurrell:

Q. Are you in competition, your various Lloyds, with the stock companies in this field? A. Yes.

Q. What character of risk do you ordinarily write? A. Our business is confined exclusively to properties connected with systems of automatic sprinklers. We insure no other class of risks except in

one institution we have the right to do so, but we have the right to insure unsprinklered risks of selected character, but we have done practically nothing in that.

Q. Do you know whether there are any Lloyds recognized by this State or licensed to do business here that do a general insurance business; that is, outside of the sprinklered risks? A. Well, I think that there are a few. There have been so many of them retired, some on their own volition and some on the volition of the department, that I do not know just how many, but there are very few.

Q. What I am getting at is as to whether they furnish any means of competition to the stock companies in miscellaneous fields? A. No, none whatever.

Q. The competition is practically zero? A. Yes, sir.

Q. And such competition as your Lloyds furnish is in competition with mill mutuals and the factory insurance associations? A. On protected risks exclusively.

Q. What systems do the Lloyds follow in arriving at their rates? A. It has been our plan to make most careful and thorough inspections of properties which may either be equipped with sprinklers, or properties which we are seeking to have equipped with sprinklers, and giving our own estimate of what the risk can be written for at a fair and reasonable profit to ourselves, and a fair and reasonable rate to the assured. If the property is not protected with sprinklers we require the improvements to be made, in addition to the installation of the sprinkler system, and other fire protection, and we estimate ourselves as to what we think will be a fair and reasonable rate for the risk to be written at. There are instances, of course, where tariff rates are lower than we care to interest our institutions with.

Q. On the whole, do you know how your rates compare with the tariff rates of stock companies? A. For many years past our rates have usually been lower than the tariff company. Our competition, however, is very frequently met.

Q. Do you know whether there is any monopoly existing in the automatic sprinkler equipment business, or anything approaching a monopoly? A. In what regard?

Q. In regard to the manufacture?

Chairman MERRITT: As to particular devices?

Q. Yes; as to automatic sprinklers? A. Why, there are two very large automatic sprinkler companies, who probably get the largest portion of the business, but there are a number of concerns installing sprinkler equipment, so that a man can secure competition if he wishes to.

By Judge BRUCE:

Q. Are these devices covered by patents? A. Oh yes, in each case.

Q. Do you have a limited amount which your various Lloyds will write upon any given risk? A. Yes.

Q. The amount is limited? A. Yes, sir.

By Mr. HURRELL:

Q. You spoke a moment ago about the stock companies meeting the competition, or that sometimes your competition is met; is that more common than instances of the Lloyds meeting the rates of the insurance companies; that is, are you usually the leaders in bringing down rates? A. I think that on sprinkler business we have been a very important factor in years gone by.

Q. In reducing the rates? A. In reducing the rates on protected property.

Q. Do you know whether the Factory Insurance Association, in specific instances where you were competing, make what is known as a relief rate; that is, abandon their old rate, in order to meet you on a particular risk? A. Yes, but that rate applies to their meeting the competition of the mutuals.

Q. Do you keep any experience, or any classification, of your loss experience? A. Yes.

Q. From year to year, so you know exactly what the losses in the various classes have been? A. Yes.

Q. How many classes are in that experienced list? A. I am not able to say positively, but probably forty to fifty.

By Judge BRUCE:

Q. Of course that is a classification of just a special line of risks, sprinklered risks? A. Only on sprinklered risks.

Q. It makes it comparatively easy to classify, then? A. Comparatively so. There are various types of manufactures where it is a little difficult to know where to put it in the class.

Q. I mean in comparison with what a company would have to do writing all kinds of risks? A. Yes.

By Mr. HURRELL:

Q. Now, the individual subscribers to a Lloyds' policy are not liable for any amount beyond the portion of the risk that they take in that policy? A. In that policy.

Q. That is, they are unlike the mill mutuals' members, who are liable to five times of the amount of the premium they are paid? A. In our Lloyds' policies a man is liable for the amount set opposite his name on that policy.

Q. And that is all? A. He is also liable, under the conflagration proposition; there is a limit upon that.

Q. Well, now, will you explain that a little bit further? A. The American Lloyds' liability is five times the amount of the deposit, plus the amount that has accrued to his benefit as an underwriter in a conflagration fire; but that liability exists in every city of the country in which we are doing business, so that it might be considered almost an unlimited liability of those underwriters.

Q. Do I understand that when the underwriters come together in one agreement to write insurance together under the name of Lloyds, do they make a deposit with their attorney in fact? A. The requirement is they shall deposit $2,000, and that is accompanied by the power of attorney, and that must be deposited before we begin underwriting for his account.

Q. How many underwriters have you in your American Lloyds? A. Fifty.

Q. And what is the usual size of a Lloyds? A. That is the largest one, I think; they run all the way from 25 subscribers to 50.

Q. And this conflagration liability is set forth in the policy? A. It is set forth in the policy.

Q. And your Lloyds, by the law of this State, are held to the same standard of solvency that the stock company is, is it? A. Yes. We have always, since the inception of our business, maintained the legal re-insurance reserve, and complied with all the customs and

requirements of the stock companies in that regard, for the safety of our policyholders.

Q. Then, in addition to that, the Lloyds usually figure as the security behind their policy, the individual fortunes of each one of the underwriters? A. Yes.

Q. And on each risk you have, to the extent of the amount they have taken? A. Yes.

Q. From your experience in this field, is there anything you might suggest to the Legislature that would be helpful to insurance conditions generally, on the subject of Lloyds; any amendments to the legislative statutes, either in the way of closing up or correcting defects, or in the permitting the organization of more Lloyds? A. That is a very difficult question to answer. If you will say what you have back of that question, what you would like to bring out, I may be able to help you.

Q. I have nothing in particular back of it. What I am thinking of is the condition that exists here, that is causing complaint in this city against the Fire Insurance Exchange as a combination in restraint of trade; and what I have in my mind is, possibly you see a way, from your experience, by the use of these instruments, the Lloyds, to ease off this condition about which the public are complaining? A. I do not think it would be possible to form a sufficient number of large Lloyds institutions, whose subscribers are of the very highest financial standing and business reputation, where they could secure a management which would insure the probable successful result of them underwriting on general business.

Q. You say you don't think it is possible to secure that management? A. I didn't mean to put it just that way. But I don't think that is a field for this type of insurance on unsprinklered business, unless these institutions are going to be very large ones, and the management of each will probably result in a profitable business being transacted by these institutions, so that the public will be glad to avail themselves of their policy. Our business, you understand, is on an entirely different proposition, insure nothing but protected risks.

Q. Do you insure protected risks in conflagration centers? A. Yes, but the conflagration feature is the first one that receives attention from us, when accepting a line, for the risk itself may be a

very excellent one, and the surroundings may be such as to thoroughly endanger that property unless properly protected against. And we make that the very first feature that we consider in taking a line, as to the probabilities of a conflagration fire, taking our risk.

Q. What underwriting rule do you follow in selecting risks in conflagration centers? A. The inspection of the best fire insuring and engineering experts that we can secure; our own knowledge of the business; the character of the locality, of the city fire protection; the question of whether the windows are protected with standard fire shutters or wired glass; or an outside sprinkler system, and also the hazard that is contained in the risks that are adjoining and near this property.

Q. I was directing my question more as to whether you placed throughout a large city only one risk, for instance, in so many blocks? A. We limit our lines to the block, if that is what you are getting at.

Q. So that, even where there might be an exposure hazard, you take on but one line subject to that exposure hazard, and no more, until you get over in another section, where you may take on a line on a property, which is just as exposed, in the other block? A. That is correct; so as not to lay ourselves open to what we consider a serious conflagration condition.

Q. How long have you been a broker in New York city? A. Well, I have been a member of the brokerage firm of Edward E. Hall & Company, since — some two years and a half, or three years.

Q. And that firm, or yourself, has a license from this Exchange? A. Edward E. Hall & Company have a license from the Exchange. Previous to that time my time was devoted entirely to the underwriting of these Lloyds' institutions.

Q. I want to ask, Mr. Trowbridge, if you believe it would be beneficial to the insurance conditions of this city, if the power of licensing the brokers was taken from the Exchange and lodged in the State? A. Well, that is a question I could not answer, Mr. Hurrell.

Q. Have you, in the transaction of your business, ever had cause to complain, even though you might not have recorded your complaint, to complain against the Fire Insurance Exchange and its methods, as to its treatment of brokers? A. As to what?

Q. As to its treatment of brokers? A. No.

Q. Have you ever known of the Exchange arbitrarily revoking the license of brokers? A. I can't state any specific instance, but I have heard that there have been brokers who have not properly lived up to their agreement, who have been either criticized, or perhaps the licenses revoked; but I don't know of any instances that I could say.

Q. You recognize that one of the reasons for the success of the Fire Insurance Exchange is the way they force a broker to give a pledge regarding various conditions which the Exchange lays down, do you not? A. I believe there are such conditions. That is a part of the business with which I am not at all familiar, because it don't come into my supervision; so I can't give you a very good answer upon it.

Q. Have you heard many complaints among your business associates or other brokers of the methods of the Exchange? A. No.

Q. Have you ever had cause to believe that the rates promulgated by the Exchange were inequitable? A. In what respect?

Q. Well, for instance, have you ever had cause to take up a specific instance where you thought your client's property had been rated at too high a figure by the Exchange? A. Why, those cases are usually amenable; can be rectified by the improvements that the assured may make, for which he gets a consideration in rate.

Chairman MERRITT: Let me ask a question.

The WITNESS: Can I add on one sentence?

Chairman MERRITT: Surely.

A. (Continuing) In other words, if there is a deficiency against his rate, he has the opportunity of correcting it, making a safer property for himself, and getting a lower rate, which pays him the cost of the improvements that he has been advised to make.

By Chairman MERRITT:

Q. Applicants for insurance, or people who have insurance risks, do sometimes feel that they are charged too much, do they not? A. I have never known anybody who didn't think he was charged too much.

Q. Now, do you find any complaint as to the equity, as between different risks; do you find people complaining that they are charged

more than somebody else is charged, or they think so; making that complaint; for a similar class of risk? A. It is not an unusual thing for a man to say that his risk ought to be written as low as his neighbor's in a similar class of business. His own property may be one of ordinary construction, and the other man may have a risk with fire-proof construction, and mill construction.

Q. Somebody, somewhere or other, has compared the cost of insurance to taxes, put it on that same basis; and it is a very common thing for taxpayers to grumble, even if they don't go to the extent of getting a writ to determine whether they are equitably assessed or not as compared with other property owners in their particular locality. And I wanted to find out whether or not complaints among insured people, not that their premiums were necessarily too much, but it was more than it should be by comparison with somebody else. That is the real question of equity? A. The ramifications of that subject are almost endless. A man might have a factory of similar construction to another man, but he may have a lot of old, worn out machinery, which is not doing proper work; the up-keep of his plant is not the same as his neighbor's, and for these deficiencies, and these conditions, he is not entitled to the same consideration in rate as a man whose factory is of better construction, and contains better fire protection, and so on. Is that what you want?

Q. That is what I want to get at. Of course, these are cases that would have to be adjusted, and would explain the difference between the rates when presented to the man, what the comparison was, etc. The question of making the rates, and the suggestion which has been made that the insurance rate is akin to the tax rate, the insurance premium like a tax, has some apparent foundation in the fact that an imposition of a tax by assessment is always an act of judgment on the part of the assessor, and apparently the fixing of a rate either under schedule or otherwise, is very largely an act of judgment, determined by superficial evidence of one sort or another; one as to value, the other as to risk. It is quite a similar mental operation, because I should take it in the mind of the fellow who finally fixes the premiums, as to the mental processes of the assessor who fixes the values for the basis of taxation. Isn't that so, or am I wrong? A. No, I think it is

more definite than that as relates to the insurance end of it. A property may be a good risk in and of itself, but there may be exceedingly serious exposures to the property which a company would feel they were taking a greater risk in insuring for this reason.

Q. Are there more definite things on which to hang difference of premium, based on the differences incident to the risk; but after all, those are only things which instruct the judgment of the rate maker; he has more specific things brought to his attention, as a result of experience and classification than the assessor has; but when he has got all through with that he performs an act of judgment which is not entirely unlike that of the assessor; for absolutely no piece of property does he take all of the same things into consideration; it is the same with an assessor, he says, what his judgment is that the property is worth; and the rate-maker practically does the same thing. I suppose the rate-maker tries to have a reason in his own mind for any advance in premium, between the property, say, of the same general division of a municipality, with the same general conditions? A. The rate makers of insurance have at their command the experience of the best experts in the company, and the most minute information on the subject of fire-proof construction, and of all other types of construction, and from the tests that are made from all types of fire appliances, and the tests that are made of all of the raw materials that go into the manufacture of the products of the plant. They have the opportunity of finding out what the danger is, and base their conclusions of the rate upon the conditions that they find in that property, which seems to me to be a fair way.

By Mr. Hurrell:

Q. Will you explain what is known as a warranty company? A. A warranty company?

Q. A warranty company; what is a warranty company in insurance? A well, I don't know as I am able to give you a clear answer upon that. You mean a guarantee company?

Q. Well, I am frank to say to you, I am not clear on the subject myself. I had understood there were certain companies that

undertook in a sort of way to guarantee the risks of other companies? A. You mean by re-insurance?

Q. Well, not exactly by re-insurance. What is your understanding of the term, Mr. Trowbridge, warranty company. A. I can't give you a good reply to that, Mr. Hurrell.

Q. All right, I won't ask it then. A. It is a thing I have had no experience in, and I am liable to say the wrong thing.

Q. The Lloyds of New York State are under the supervision of the department, are they not? A. They are.

Q. And are inspected as to solvency by the Department, the same way the stock companies are? A. The examinations have just been made of our institutions.

Q. And there was a statute passed in 1910 making a new standard for the solvency of Lloyds? A. Yes. It may be interesting to you gentlemen to know that the only standard previous to the 1910 law, which in any way placed any restrictions regarding business methods and standards for the Lloyds' institutions, was one that was backed up by our office; and we caused its introduction; that is, the maintenance of a re-insurance reserve, the filing of financial statements, and giving notice of new underwriters, of their financial standing to the Department, for the purpose of having a standard to go by, and for all the years since that act was passed our statements have been filed with the department.

Mr. HURRELL: That is all, Mr. Trowbridge.

HENRY W. LOWE, called as a witness, being duly sworn, testified as follows:

By Mr. HURRELL:

Q. What is your business, Mr. Lowe? A. Insurance broker.

Q. With what firm are you connected? A. Johnson & Higgins.

Q. They are a corporation? A. Corporation; yes.

Q. Are they licensed to transact a fire business in this city? A. Licensed by the State?

Q. Licensed by the Exchange? A. Yes.

Q. And they also conduct a marine business? A. A marine business; yes.

Q. All I want to ask of you, Mr. Lowe, at this time, is this: At various times since this Committee has been taking evidence on the subject of fire insurance, reference has been taken to a mysterious way, or an alleged mysterious way, in which insurance is placed outside of this country. It has been indicated that your firm, as brokers, did a large insurance business abroad, and I want to ask if you will explain to the Committee the manner in which you do that? A. I will try to. There is a certain business which naturally goes abroad, because it is purely surplus. A surplus business, as we know it, is the excess of line beyond what the companies entered and doing an agency business here, or home office business here, can assimilate, can carry. If a risk, for example, is valued at a million dollars, and it is rather a hazardous occupancy, it is not an easy thing to place. We placed, for years, as an example, the large cooperage plant of the Brooklyn Cooperage Company in Brooklyn. This is purely an example. That had a value in excess of a million dollars. We had to place at least $250,000 outside of this country, whether we wanted to or not, in order to get the insurance. When I say "outside of this country," I mean, send it by mail or cable or in person to some home office of the company or someone else that had no direct representation here in this country.

Now, it would be equally true of a small company in Ohio not having a New York resident agent, or admitted in New York. We would do the same thing to Ohio that we would do to London.

Then there is another business that drifts to the other side, purely from competition. The underwriters over there are willing, at times, to write business at less rates than the American companies. That, also, is very infrequent, owing to the fact that they have no knowledge of that business, and it is hard to persuade them, if you wanted to place it there, that it is a sufficiently desirable business for them to write it at less rates than the companies here are willing to write it.

Now, Mr. Hurrell spoke of a warranty company. I might bring that in here, if you want to know.

Q. Yes, if you please. A. You do not refer to anything but fire insurance? You do not refer to guarantee or bonding or anything like that?

Q. No, fire insurance. A. The term refers to any company

doing a live business here, with men in the field and with an agency staff planted throughout the country, which would be acceptable to Dutch underwriters and London Lloyds, to any foreign company, who did not know that business, as a warranty company, if they had no knowledge that that company was not conducting its business poorly. I mean, if we should send over the name of a company they had never heard of before, it could see that company had been in business 15 or 20 years, had reasonable cash assets; had grown progressive, and would accept them.

By Chairman Merritt:

Q. Would take your word for that? A. Well, yes.

Q. That is your business? A. That is our business, and it pays us to keep our word when we give our word in our business, whether we feel so inclined or not.

Q. I mean your statement would be accepted by them if they had never heard of the company? A. I think it would. They have many ways of looking it up. I know several companies in London have copies of Alfred Post's copies of reports of these companies, and that they refer to. If you send them a warranty, they see how the company is you have used as a warranty. The stronger the company the better it goes.

There used to be a time, in conducting this business — it is not so long ago — when the London market was much freer than it is now. They have not had great success in it thus far. If you wanted to place $100,000 of insurance, if you had a 10 per cent warranty with some large company, such as the Home or the Liverpool, London & Globe, you could probably get $90,000 out of the London Lloyds. As a rough estimate, I would say it takes 50 or 60 per cent warranty to complete that $100,000 now. It is an entirely different condition.

By Mr. Hurrell:

Q. You mean by that 50 or 60 per cent, if you wanted $100,000 of insurance you would have to place 40 or 50 or 60 per cent here with one company before you could complete your order abroad, and when you use this one company as a warranty with the London

Lloyds, for instance, it means they follow that company? A. I cannot quote the terms of that so-called agreement, warranty clause, but it says they will be subject to the identical rates and conditions of the warranty company, to follow such adjustments and endorsements that may be made by that company on its policy.

By Chairman MERRITT:

Q. Let me ask you a question to clear my mind. I am aware that if I am ever to understand this I will have to ask a lot of questions that will probably seem foolish. When you speak of 10 per cent warranty, do you mean that you can, if you have a $100,000 risk, you could, if you had placed 10 per cent of that risk in a local company in this country somewhere, that is, that is one that you were willing to recommend to your correspondent, assuming that they would take that percentage, that they would write the other 90 per cent over there? A. Yes, sir.

Q. That is what you mean? A. Yes, sir.

Q. And when you speak of 50 or 60 per cent, you mean as conditions are to-day, you would have to write 50 or 60 per cent of that in some local company or American company or company licensed to do business in America, and, having done that, you could place the balance, the 40 or 50 per cent left, $50,000 or $60,000, in a foreign country? A. Yes. In perhaps fewer words: It takes a much larger warranty, size of the line — I mean size of the acceptance, to place the same thing abroad that it did five and six years ago; that there are a great many underwriters — of course London Lloyds is the chief market for American business. Of course there are a great many small companies, known as non-tariff; some of them, I think, tariff companies, who write a little American business, but the London Lloyds is the big market, for not only surplus lines, but for big corporations' lines that do drift abroad. There is no question that they do, because of more favorable terms of policy; outside — I am not referring to New York State now, because I think the restrictions are such that it cannot drift abroad, except under certain limits, and there are a great many underwriters at London Lloyds who have ceased altogethter writing a fire insurance business in America because of the unfavorable expense. That curtails the market and the others become shy, and it ——

Q. (Interrupting) Limits the percentage they are willing to handle over there? A. Yes. You see, we do not send to an underwriter that has a broker here. We may not send to those. We send to a brokerage house in London or Hamburg and they can give an offer to those underwriters to supply it as well as we can. We have to give them the most information we can. If it is a favorable risk the better chance they have of placing your order.

By Mr. HURRELL:

Q. Did you say these London Lloyds would go out and take insurance at the same rate that the company would take it here? A. That is the condition of the warranty. The same rate, terms and conditions, and to follow all endorsements and settlements made by that original company or the warranty company.

Q. Well, then, as a matter of fact, if that is true — I do not question your word on it — but then there is not any competition there, is there? A. Well, there is a decided competition for the business too. If you want to use a warranty company you must get the competition here first. You must get the company to write it. Perhaps you can get twenty companies, but if you wanted to get a company at a reduced rate, you might get but one. I am referring to just the condition that exists in this estate. If you want to limit me to New York State, then I will have to argue on a different line altogether, or talk on a different line.

Q. What I was thinking of was this: It would be possible for the underwriters of London to do their business at less expense? A. Yes; there is no question of that.

Q. Then the local company, for the reason that if it follows the local company in fixing the rates — it escapes all that machinery that goes in making the rate? A. Yes.

Q. It escapes the expense of adjustments of losses? A. Expenses of adjustment and inspection and office expense. Their office expense over there is comparatively small.

Q. I wondered where the competition came in, or why that rate would not be less over there by reason of the freedom from all these expenses? A. Then you must get away from the warranty condition. Sometimes Lloyds' underwriters, if you send a full survey of the risk, history of its loss record, what has been

the experience and possibly a statement of the tariff, you might give your own theory of this. That this rate is too high because so and so, or look at the survey we send you. Why, then, our brokers there could go and argue with the underwriters as we would argue here, and they may meet with some success. That is not a general way of doing business, because the foreign underwriters do not like to trust to the adjustments in the event of loss of somebody they would be called upon to appoint over here, with whom they were not acquainted. They know if a company is interested that company is going to try and get a fair settlement for themselves and they follow the warranty company and would get an equally fair settlement.

Q. Is there anything beyond the business standing of the brokers here who place business in that manner abroad, to guarantee to the assured that he has real protection when he gets the policy? A. When he gets the policy?

Q. Yes. A. I do not think; no; not unless he cares to investigate, or write to a bank in London, or send over a list of subscribers or underwriters on that policy so they could be investigated and reported on the same as the company could here. If he wants to deal with that broker primarily, he must have confidence in the men he gives the order to, because the man will tell him he has the best brokers.

By Assemblyman Foley:

Q. That is only a question of responsibility? A. Absolutely; that is all.

Q. Is there any reserve fund to cover the loss? A. Where?

Q. Capital in New York State or elsewhere? A. Not in this country on foreign lines accepted in Hamburg or Paris.

Q. I had in mind the question of the London Lloyds. Have they a reserve? A. They have a reserve.

Q. Do you know how much? A. I do not know. It is comparatively a new system, and I think had a criticism from America. They get a good deal of marine and fire business out of this country, and there was two or three years ago quite a campaign in the papers.

By Chairman Merritt:

Q. Is a large part of the marine insurance underwritten that way? A. Yes, a much larger part than the fire business, because the marine market is so limited over here that it is impossible to cover a big risk here, even though it is very desirable. I mean a big steamer. My experience is very limited in the marine end of it and I must say that I would not answer many questions along that line.

By Senator Colne:

Q. Is there any limitation in the amount of insurance you may write for any one of these concerns? A. I do not understand the question.

Q. In other words, may you write any number of policies in any amount?

Chairman Merritt: If you can get them to take it over there, yes.

The Witness: Limited only by the value of the property you insure.

Q. Each particular set of Lloyds can write any amount of insurance without restriction of any kind? A. Oh, yes, there is no restriction, as I understand it, as to the line they shall accept or retain. But when they once have accepted a certain straight line, and it has been apportioned to a number, to, say, 10 underwriters in one group, and they group themselves into groups, and appoint one man to do their underwriting on the floor of Lloyds. That is for convenience and saving of expense and everything else. They pick an experienced man. They think he is experienced. They try to get an experienced man, and if the group of ten takes $10,000, each one would have a thousand dollars, and he must put up a certain reserve of $1,000 until that risk is run off, or if he renews it he does it again the following year. They do not do it by the term at all on the Lloyds; it is annual business.

By Mr. Hurrell:

Q. Do you have any method here by which an assured who applies to your office can be protected instanter upon the application.

For instance, can I come down to your office to-day with an ordinary risk and apply to you for insurance abroad and get it at once? A. No, sir. It must take a cable reply. At least the quickest we can do is cable over and get acceptance and get a cable back. We have, in other words, no binding power, no accepting power for any company. We are brokers, purely and simply. I mean pure and simple. We do not attempt to represent as underwriters or agents any Lloyds or foreign companies.

Q. Do you represent the insured and hunt the world over, if necessary, to get insurance for him? A. We want to have the market of the world at our disposal for doing the best we can for our customers. Now, I refer again to outside of New York State. We never send a risk abroad in New York State unless it comes within the provisions of the affidavit of section 137. I know, as a licensed agent, I know a risk does not go out of our office to the other side, that is located in New York State, unless it can comply with the terms of section 137.

Q. That is a surplus line section law? A. Every company here must have been offered that risk, and either accepted or declined it before you can place any abroad.

Q. Then you can place it as the agent of the company? A. That is why I say I must distinguish between New York State and elsewhere in handling this business.

Q. Who acts in the settlement of losses, Mr. Lowe, for these Lloyds that do not have a warranty company? A. Generally it has a provision made in the policy that some recognized adjusting company over here will undertake that duty.

By Senator COLNE:

Q. How is the fact established that it has been offered to all companies here and refused? A. An affidavit, or affidavits, signed in duplicate, one with the County Clerk and one at Albany, just be signed and filed prior to the placing of that business. That becomes public information, and any company — it is generally published in the insurance papers — and any company seeing that business going abroad, feeling they would accept some of that business, can immediately, I think, have that affidavit revoked. It so seldom happens that I have never seen a case.

Q. That is only a relative time to accept or refuse the offer? A. Yes; as I understand it.

By Assemblyman Foley:

Q. How does that work out? In what way do you ascertain whether the companies will not accept it? A. We have a system of conduct in the brokers' office, and the order comes in and they have one or more men they term placers who go on the street and place these risks on a binder for the company; if the company wishes to participate in the insurance they will sign that binder for a certain interest, and if he thinks he has covered the market — of course if it is New York city or Brooklyn, or a risk in that immediate neighborhood, you can tell within a few hours. If it is a risk located up in one of the cities up the State, you might have to telegraph or correspond with some of the agents to see if they could write it. You certainly would for agents not having a home office in New York. If it was an agent of the Home Insurance Company, they could tell you in their home office whether or not they would write it. If it was an agent of the American Central of St. Louis, you would have to send to an agent to get an answer.

By Mr. Hurrell:

Q. Did you say your experience was mostly in the marine end? A. Fire almost entirely. I really could say entirely.

Q. You place them, lots of business, upon individual risks here in admitted companies? A. Oh, I suppose — I would not estimate — but I guess 99 or 98 per cent of it is here in admitted companies.

Q. Have you seen the official record of the testimony of Mr. Reed, the manager of the Exchange, and others before the Committee? A. At times, and read some of it, but comparatively little.

Q. Well, there has been a considerable complaint on the part of citizens before the Committee as to the methods of the Exchange, both as to its treatment of brokers in some instances, and in the rates, and as to the rates it makes. Have you been in the field here since the Exchange was established? A. I came in, I think, two years before it was established.

Q. Would you mind stating to the Committee what your experience with the Exchange is, and whether you believe these complaints are well founded, speaking generally, against the Exchange and its methods? A. I think the Exchange has accomplished a great deal of good. It is a question — I would not want to say whether they have charged more rate of premium for the risk that they run, the companies run, than warrant it, because I have no statistics on that. I find the Exchange, in dealing with them, eminently fair. They go as far as they can in relieving you of work; in inspecting risks; in making suggestions for improvements, and give you credit for improvements when made. If their basis is wrong, I have no way of telling it. If I might speak of the commissions, the commissions, of course, are extremely liberal, and I think, in some cases, too high for the work we do.

Q. Cutting down upon the expense? A. I cannot see any sense in paying a broker 25 per cent of the commission for placing a dwelling house. They cannot tell me that I earn any 25 per cent of premium by going out and placing a dwelling house which any company will take, which is fairly well protected, for all you have to do is deliver the policy. It is a simple line. It is out of all proportion to the work you do.

But, on the other hand, you have some very difficult propositions; some very difficult risks to place. You have to keep at them continually, and our minimum commission, 10 per cent, hardly takes care of that, and I think, on the whole, 10 per cent would amply pay a broker for the labor and work he does, and I think I am qualified to say that, because I believe we conduct our brokerage business at a righer rate of expense than any other brokerage house in the country.

By Senator Colne:

Q. You think the average would compensate you? A. At 10 per cent?

Q. Yes. A. I do.

By Mr. Hurrell:

Q. You say your brokerage house is probably under as much expense as any other brokerage house; in what way is it, in the num-

ber of clerks employed? A. Partially. A broker is not through with the business when he places the order and delivers the policy, as we understand a broker's duty. We keep an expert staff of insurance engineers, what we term inspectors. I do not think it is necessary to inspect a dwelling house, but when you get into what we call special hazards we have a man on the road at all times, and that is not in the interest of the insurance companies in any sense; it is absolutely in the interest of our customer, the insured, whom we serve. He makes his report; it shows construction of the building, the fire protection, hazards involved, and at the end improvements recommended to eliminate, as far as possible, danger from fire. His reports have been proved to be extremely valuable, and it is of great expense. A man who has had but little education cannot make an intelligent report, and a man must necessarily be a high-salaried man. The traveling expenses and his living expenses on the road all go into our expense; and we run a separate loss-adjusting department. We feel if a customer of ours has a loss we cannot desert him, and he cannot handle his own loss, and we cannot recommend to him that he go out and employ a public adjuster. That would be falling short of our duty.

By Chairman MERRITT:

Q. You do these things without additional charge? A. Never make any additional charge for it.

Q. Then, speaking of the rate of commission, it seems evident that the rate is fixed with reference to the aggregate of business done by the small operator? A. Possibly.

Q. And not people who do a large business? A. Possibly the small operator won't be under any such ratio of expense as we are.

Q. And he won't have any such volume of business, either? A. No; he might have if he could have the same force to get it.

By Mr. HURRELL:

Q. Of course, the employment of these inspectors who are inspecting the risks, you say, is against the interest of the insurance companies; you say they are always watching to get a higher premium, because you are always driving the rate down? A. Yes, driving down, but, theoretically, I will say I have found insurance

companies generally willing to reduce the rate for improvements made. Most risks in this country are rated in so-called schedules, starting from a basis and building up, not only in New York city but throughout the country. I think if you can eliminate and improve upon the conditions for which they make special charges, the companies I find willing to eliminate charges and reduce the rate accordingly.

Q. Have you had any experience in underwriting from the company end at all? A. No, never have been, except in the first year of my short business career, and then I was nothing more than call boy, or clerk.

Q. Does your experience in underwriting, such as it is, in the brokers' end of it, lead you to place any value upon classification as a means of testing whether this base rate is or is not right? A. I would not answer that, because my experience would not lead me to give an intelligent answer.

By Chairman MERRITT:

Q. It is the purpose, is it not, of men like yourself, as you go on in business, to be able to say to your customers with some definiteness, at least as to your own opinion, as to whether rates the companies propose to charge on their risks are fair and properly constructed; that involved a study of the schedule rate? A. Yes, a study of the schedule and our surveys, and a diagram which we make, showing the construction of various buildings, in two colors.

Q. If you carry it far enough you reach a point where —— A. Where we become experts; yes.

Q. And that means, to a considerable extent, of course, how large an extent I don't know, the companies will listen to your suggestion as to what the rates ought to be, because they will recognize that you approach it from the same expert standard that they attempt to; if you think a rate is too high they are quite likely to investigate it? A. I think we are working to the same end. One other thing I should like to say, because I think it is of the greatest importance to the business generally and to the reduction of this enormous fire waste, that is a drain on the country, the introduction of automatic sprinklers, which have only been used in the last twenty years. At first they gave ten per cent credit for these sprinklers. And now

they get down to 16 and 17 per cent credit for a standard system. It is not unheard of where they have reduced the rate seventy-five per cent for that protection. They are supposed to control fires in ordinary hazards. Of course, if you have an explosion, which would blow the automatic head off and destroy the system, the sprinklers are of no value.

By Mr. HURRELL:

Q. Do you think an anti-compact law would be against public interest? A. I think absolutely against public interest. I think that the danger of a conflagration in New York has been gradually reduced, taking New York city alone, owing to the efforts of the New York Fire Insurance Exchange, and the companies and brokers work in harmony with them. They may make a great many errors, but I think, on the whole, that you could not have had that physical result if you did not have a rate condition to govern it. I mean if a company should take it at a rate through competition it would lead them to get away from the improved condition in order to reduce that rate.

Q. Do you think there would be anything gained by the State licensing brokers, instead of the Exchange? A. I do.

Q. In what way? A. I think it would largely do away with a practice which I cannot prove, but which I believe goes on, of rebating. The commissions are large, and larger than warranted in certain cases, and I think considerable of it is given by brokers to their customers. They are not entitled to it. The same result would be accomplished by the State licensing brokers and prohibiting rebating, and that, eventually, would go to the companies; then they could reduce their rate rather than have it go back to the assured, which is not a legitimate way of conducting it.

By Chairman MERRITT:

Q. I cannot get in my head, as I said to Mr. Robb, the essential wickedness of rebating. It seems to be something that both the companies and their representatives, agents and brokers, particularly object to? A. I do not think it is a healthy condition.

Q. Why not? A. I think that that might better go into the reduction of the expense of handling the business. As I said, it is

a temptation to the brokerage house to give up. If they get 25 per cent to place a dwelling, why shouldn't they go out and, if they see another man, ask him for his business and give him 15 per cent? They certainly don't earn 25 per cent on a dwelling house.

Q. The rebate is, of course, from the agent's commission? A. Yes.

Q. The company has got all that it asks as a premium, hasn't it? A. Yes.

Q. Who cares where the rest of the money goes to. Why should a man have any complaint that he got no rebate from his broker, and some other man did get a rebate, any more than he should complain, if he goes in the market to buy a commodity, and he finds that a wholesaler will sell him a line at a better price than another wholesaler will sell him that line? A. He may have gross and net prices.

Q. There is no trouble over that; he makes the best trade he can. Now, if I wanted to get a very large line of insurance, and the commissions were so big that it was a very considerable amount, the company having assured itself of a premium entirely satisfactory to it, whose business is it what becomes of that extra sum of money? A. I don't think it is anybody's business, unless you have obligated yourself not to give up.

Q. You say to the broker, I will give you this business if you give me twenty-five per cent of your commission, and another fellow comes along and says, I will give you thirty per cent, and I say, You are on, I will take your offer. What is there about that that is bad practice or has any vice in it; that it what I want to get at? A. Only in this way, that brokers, at the present time, acting in New York city, have signed an agreement not to rebate their commissions.

Q. That is all right. That is a question between the brokers —— A. And the company.

Q. Yes, as to whether they are gentlemen who observe their promises or not, and, of course, it is a bad thing for a man to agree to do something and then not to do it, if it is possible for him to perform it; but how does that affect the public; make a bad lot of citizens? A. Yes; in this way, that if there were no high commissions there would be no rebates. A broker could not afford to last

in the business that would rebate a small commission, and I think it would work out to the benefit of the general public quicker than giving a sharp trader the benefit of an interest in the commission.

Q. My impression would be that practice of rebating was a practical evidence that the commission was too high? A. I just said that. If you reduce your commissions practically it will make a reduction eventually in the rate.

Q. You cannot regulate it by law, because you are not a public service business? A. I have not studied that.

By Assemblyman COLNE:

Q. Does it really make an unsettled condition among brokers? A. Absolutely, but that is not so very serious.

By Mr. HURRELL:

Q. You do not happen to have with you a certificate, a policy issued by the London Lloyds, have you? A. No. I would be very glad to have one submitted here. I don't know whether I would be justified in submitting a written policy, showing some particular customer's business.

Chairman MERRITT: Just a blank.

A. (Continuing) They are never written here, as I understand it. I have never seen a London Lloyds policy that was written in this country.

By Chairman MERRITT:

Q. You might be able to give us the language of the stipulation? A. I can only say it is much less restrictive in its terms than the standard American policy, under it you would have to obtain fewer special permits to conduct your business, to use gasoline on your premises where necessary. It has a clause which eliminates loss by riots or civil insurrections, the same as our standard policy here, but the classes of restriction are extremely limited.

By Mr. HURRELL:

Q. And, perhaps, in asking for it, I might simply state that we are asking for it simply as a matter of information, if you have any,

it will be all right, even if you strike out the customer's name? A. I shall be glad to have one here Monday.

Q. If you will mail it to us it will do? A. Yes, sir.

By Assemblyman Foley:

Q. If this rebating continued to a customer it would mean an increase in the rate? A. If it continued I think so.

Q. It would mean an increase in the rate, so that in the end the general public would suffer? A. Yes. It would work out satisfactorily if they worked on a fair commission.

Francis H. Ross, called as a witness, being duly sworn, testified as follows:

By Mr. Hurrell:

Q. What is your business? A. I am the New York representative of the Buffalo-German Insurance Company of Buffalo, the Buffalo Commercial Insurance Company of Buffalo, and the Standard Fire Insurance Company of Trenton.

Q. How long have you been in the fire insurance business? A. As policy writing agent, twenty-six years.

Q. Do you belong to any of the company organizations in this city? A. Yes, sir.

Q. What ones, please? A. I am a member of the New York Fire Insurance Exchange, the New York Board of Fire Underwriters.

Q. Are you on any of the committees of that body? A. At present I am a member of the rate committee.

Q. That makes the rates? A. We revise rates and generally reduce them.

Q. You brought to my attention some time ago, Mr. Ross, a matter that you wished to present to the Committee. Will you state to the Committee what complaint you have to make? A. About six months ago a Mr. Woodbury, a bond salesman for Ladenburg, Thalmann & Co., called on me and made a proposition; asked me to use my influence with the Buffalo-German Insurance Company to buy some of the bonds of the Bond and Mortgage Company.

Q. That is the name of a corporation in this city? A. Yes; they are affiliated with the Lawyers' Mortgage Company of New York.

Q. That is the name of another corporation in this city? A. Yes.

Q. And this gentleman was a bond salesman, selling bonds of the Bond and Mortgage Company? A. Yes, sir.

By Assemblyman COLNE:

Q. Has that got anything to do with the Lawyers' Title Insurance Company? A. The Lawyers' Title Insurance Company is also another; they are affiliated; they are a group of brothers and sisters, I believe. Do you want me to go on?

By Mr. HURRELL:

Q. Proceed, if you please? A. I told him that my business was to write fire insurance, and that I had nothing to do with investing the company's funds, that was a matter for the home office, and if he wrote a letter to the Honorable John G. Wicks, our president, and propounded his proposition of buying bonds, if the bonds were good, no doubt it might interest them at the home office, but I had nothing whatever to do with that part of the business. He then informed me that I had a good deal to do with it. I asked him what that meant. He said, "Well, I want to be perfectly frank with you, and after I get through talking I think you will understand that it is to your personal interest to see that your company buys some of these bonds." I said, "Well, I am ready to listen." So he said: "Unless your company buys some of these bonds your company's name will be removed from the list of accepted companies in which the Lawyers' Mortgage Company accept policies of insurance on real estate in this city, where the Lawyers' Mortgage Company is the mortgagee or controls the placing of the mortgage loan." To be quite sure that I understood the proposition I had him repeat it. I then told him it was a nice state of affairs when an old and solid institution like the Buffalo-German must accept such threats, but he better put it up to Mr. Wickes in Buffalo and see what he thought about it, and he said he would; but I advised him not to put that threat in, because Mr. Wickes was just

that sort of a man that might not like it. Within about two weeks after this conversation I renewed a policy of insurance on the property 210 East 63rd street, which had previously been insured in my company, the Buffalo-German, and the policy was promptly returned by the Lawyers' Mortgage Company to the broker who was placing the business for the owner, stating that they did not accept any Buffalo-German policies. I called up Mr. Woodbury, and asked him if this was a part of his proposition, or game, as I called it in common language, that we were going to be blacklisted, and if it was I was going to make trouble if I could, but I did not think it was square. He said he would see Mr. Hurd, the president of the company.

Q. That is, the president of the Lawyers' Mortgage Company? A. The president of the Lawyers' Mortgage Company. A few days after that — I immediately sent the policy back to the broker and told him to try it again. A few days after that I received a telephone commuanication from Mr. Woodbury, notifying me that the policy had been accepted. I asked him how it came that a bond salesman for Ladenburg, Thalmann & Co. had so much influence with the Lawyers' Mortgage Company. He said he had already explained that to me before, what the action was. Here is a list of accepted companies which was filed with me December 13th, 1905, in which our company appears, and a number of other companies appear. That is a list of the companies which the Lawyers' Mortgage Company, whose policies the Lawyers' Mortgage Company would take? A. Yes.

Q. That was in 1905? A. Yes.

Q. And the Buffalo-German was on it then? A. Yes.

Q. In order to clear up any misunderstanding, the Buffalo-German is a duly licensed domestic company? A. Yes.

Q. Of good standing? A. Yes.

Q. With an unimpaired capital? A. Yes.

Q. And how much is its surplus? A. Its net surplus is about $1,700,000.

Q. And it is a corporation, also, under sections 131, 132 and 133 of the Insurance Law? A. One of the eight companies that is acting under the Safety Fund Law of this State. I tell my clients there is nothing better.

Q. I left you at a point where you said the Buffalo-German was on a list of accepted companies in 1905? A. Yes, sir. Now, then, in order to be quite sure that I might find out what was going on, I asked Mr. Woodbury if he could furnish me with a list of insurance companies that had bought his bonds, and he furnished me such a list. I have it here.

Q. And did the Buffalo-German — they did not appear on that list? A. Oh, no, absolutely; we didn't buy any bonds. Mr. Wickes said they were not buying any bonds, and had no funds at the present time.

Q. What were these bonds that were offered for sale by this bond salesman? A. They were bonds secured by mortgages; that is the allegation; I don't know; Mr. Woodbury told me they were bonds that were secured by first mortgages on New York city real estate. In other words, as I understand it, the Lawyers' Mortgage Company makes a loan and transfers it to this bond company, and that becomes one of the assets of the bond company, and this bond company in turn issues bonds which they sell to the general public or anyone they can sell them to, and in that way get more money to make more loans.

Q. As I understand it, the bonds offered for sale were the corporate bonds of the Bond and Mortgage Company? A. Yes, sir.

Q. The security being, I take it, bonds and mortgages assigned to the Bond and Mortgage Company from the Lawyers' Mortgage Company? A. That is it.

Q. And they putting up their money and taking the mortgages from various individuals? A. Yes, sir.

By Chairman MERRITT:

Q. They were not selling the original security, but selling their own bonds of which the bonds were an asset? A. Yes. I looked over this list very carefully, and I did try all I could to persuade my company to buy some of these bonds; I wanted peace and quiet, and I wanted to be in a position where I could do business, as I am on a commission basis naturally I am interested in doing business. I also indirectly obtained a list of accepted companies dated April 1st, 1910, and in comparing that list with a list of companies who had bought some of these bonds I find that unless you bought

bonds, you are not on the new list; there is quite a difference between the two. We are not on the new list, and a number of other companies are not on the new list.

Q. That is to say, the list issued by the Lawyers Mortgage Company of fire companies whose policies they would accept on April 1st, 1910, happens to be just exactly the same list as the list of companies to whom the Bond & Mortgage Company sold bonds? A. Practically the same, the best I could compare it.

Q. The interest being, of course, I take it, that the Buffalo German is not on that list? A. Not on the list.

Q. Because it did not buy bonds? A. Because it did not buy bonds.

Q. And you are asserting here, that that is the reason the Buffalo German is blacklisted by the Lawyers Mortgage Company, because they won't invest in the bonds of the Bond & Mortgage Company? A. That is what Mr. Woodbury said; and in a letter I have here states that it is the policy of the company to favor those that are helpful to them.

Q. That is what they call reciprocity? A. That might be a good word for it.

By Mr. Hurrell:

Q. Without going into the correspondence that you have there, you threshed this out back and forth with the companies until the situation is summed up in the statement you have made here now? A. That is it boiled right down.

By Assemblyman Foley:

Q. Is the amount of insurance that they have control of very considerable? A. A good deal; because they loan their mortgage loans in the city, and amounts to as much as one hundred million dollars.

Q. A year? A. I mean at one time.

Q. Did they ask for any definite amount of subscription? A. Oh, no. Mr. Woodbury intimated that other companies were buying as much as $50,000. I notice a number of the English companies have paid them up to $50,000, so here we are a New York State company blacklisted, although we are the third strongest American

fire insurance company, simply because I cannot persuade Mr. Wickes to buy some bonds.

By the CHAIRMAN:

Q. That he don't want? A. He don't want anything except governments and New York city and Buffalo and Erie county gold bonds.

Chairman MERRITT: Knowing Mr. Wickes, I can understand that.

The WITNESS: He would not even buy a railroad stock or a railroad bond.

By Assemblyman COLNE:

Q. There was no doubt in your mind but what you knew what they wanted? A. Exactly — a rank piece ——

By Mr. HURRELL:

Q. What is the relative standing of the less strongest company on this list of accepted companies, the list that was delivered in 1910, as compared to the Buffalo German? A. There is a company on there, the Georgia Home, I believe.

Q. What is its surplus? A. I am not sure, but I think it is about $200,000, something like that.

Q. What is the Buffalo German? A. $1,700,000; there is no comparison at all as to matters of security. There are a number of others; the Pacific of New York city.

Q. In other words, without criticising any of those companies on this list —— A. I don't like to say that.

Q. Yes, I understand; you would say generally that the Buffalo German is stronger financially? A. Than any American company that is on that list, except the Continental, and I think the Glens Falls may be on that.

Q. No; the Glens Falls is not here. A. The Buffalo German is the third in America.

Q. I presume you would not put it ahead of the Home, or the Hartford Fire? A. I would; yes; talking about liability of the Hartford Fire and the Home and the London, Liverpool & Globe, I

would consider the Buffalo German and the Glens Falls are the best companies a man could get his insurance.

Q. That is, taking the liability? A. Yes, sir; considering the liability. Take from Bleecker street up to Fourteenth street, it would amaze you, gentlemen, if you knew the liability those people had assumed.

Q. In other words, that also means that you consider the Buffalo German very careful in its underwriting? A. We have not got enough liability from Chambers street to Fourteenth street if every policy was totally consumed and destroyed, if every building was destroyed, to wipe out the surplus of the company; so when it comes to discretion, it is the best you can give a man, and Mr. Hurd knows that, too, because I wrote him that. If you know Mr. Wickes, Mr. Merritt, you know just what he is.

Chairman MERRITT: I know him very well.

The WITNESS: I wrote $10,000 on the Knickerbocker Hotel, and he made me cut it down to $5,000 only this morning.

By Mr. HURRELL:

Q. Have you been following the record of the insurance testimony, Mr. Ross, at all, given before the Committee? A. Nothing only what I saw in the papers.

By Chairman MERRITT:

Q. You didn't see very much? A. Not very much.

By Mr. HURRELL:

Q. This is true, I think, that there has been quite a general complaint against the Fire Insurance Exchange because of alleged unfair rates and alleged unfair treatment to brokers; you say you are on the rate committee of that Exchange? A. At present; yes; and I have served on the brokerage committee fourteen months, a year ago.

Q. I would like your opinion on that subject? A. On which subject?

Q. On both subjects, as to brokerage and unfair rate? A. I served fourteen months on the brokerage committee, and we met

twice a week, or the brokerage committee does meet twice a week, Tuesdays and Thursdays. Our business appeared to be principally to listen to complaints from the public against brokers for the stealing of premiums and for other various tricks, and we tried to do justice to the public in every respect; every complaint that ever came from anybody immediately received attention. As for brokers, no broker ever gets any harm from the brokerage committee of the New York Fire Insurance Exchange if he is honest. The trouble is we have eight thousand certified brokers in Greater New York, and, of course, they are an average lot of people. Some have been in the clothing business, and some in the shoe business, and busted in different things, and they become brokers then, and, of course, we have much hardship to deal with those people. They will take premiums, and not turn them over, and if the public write a letter to the Exchange it comes before the brokerage committee. In my fourteen months of experience on the committee I never saw a broker get an unfair deal. A broker that has got a kick coming against the Exchange is pretty near crooked.

Q. Do you consider that the business here needs as many as eight thousand brokers with the percentages which are paid to conduct it? A. No; I do not. I think a thousand could do the work better.

Q. If there was any system adopted whereby the seven thousand would be lost, don't you think there would be considerable suffering caused by taking their livelihood from them? A. There would. That is the only reason why, that justifies their being in business, because there are a great many of them who have been in business a great many years, and they are getting old, and they are losing their business, and they are dwindling away, and becoming poor.

By Chairman MERRITT:

Q. That makes the insurance public indulge themselves in the pleasure of being an eleemosynary institution? A. I don't catch you.

Q. Another way of saying it, if that is true, if the insurer pays it anyhow—— A. Exactly.

Q. They are assembling themselves into an unorganized body of people who are maintaining a charitable institution of seven

thousand people? A. The public will not come to us at the home office and get insured.

Q. That may be because they haven't had to? A. Well, New York city I figure is too large a town. Of course, the companies would probably be very glad to reduce rates and eliminate the broker. It is impossible in this town. I have thought it over for twenty-six years, and I do not see how you can get along without him.

By Mr. HURRELL:

Q. You consider him a necessity? A. Absolutely; the town of New York is too large.

By Chairman MERRITT:

Q. Suppose they reduce the premiums a little and the rates of commission keep pace with the reduction of premiums, that would work out all right, wouldn't it? A. No; I do not see how it would, because a broker in order to look after his business has got to have an office, he has got to have clerks; he has got to look after his clients.

Q. What I had in mind was, that if you had a smaller commission the small fellows would have to get out; the larger men who handle the business could handle it all? A. Exactly.

Q. And there you would save the insured public something, and you would reduce the number of brokers somewhat, which would make their identity better known to the Exchange, and all that sort of thing, and it is not a pleasant thought, that on insured property or that property insured, that you are really paying something to maintain a lot of unnecessary expense? A. It is a question whether they are unnecessary, because take the smaller insurers in this city, up there in the upper part of the town, a great many would not be insured at all if it was not for these small brokers who go around and work them up and call their attention to the necessity of insurance.

Q. We had that same situation in regard to life insurance, and the same arguments were made, when the rating was fixed by statute, so that as a matter of fact and actual practice while the life

insurance man has ceased to be always with you and everybody was glad, perhaps some people have not now insured their lives that ought to, which has been a great relief to the general run of men? A. I should not like to go on record, but I would like to see the brokers wiped out. There are too many.

By Mr. Hurrell:

Q. Is there any suggestion, or have you any suggestions that you might make to the Committee as to legislation on that subject? A. I will tell you; I was not prepared at all. I thought only of this Lawyers Mortgage Company matter, and I did not think I would be called at all this morning; I did not get to the office until 10 o'clock.

Q. I will ask some specific questions then. Do you believe, from what you know of the situation, it would be helped by the State licensing brokers instead of a private institution, such as the Exchange? A. I do not. The fire insurance business is entirely different from the life insurance business, an entirely different thing altogether.

Q. For instance, take this question of anti-rebates, supposing the chairman should come to see virtue in an anti-rebate proposition, and the Committee likewise, wouldn't it be better if the anti-rebate, if the idea is to be enforced that it were by the law rather than in some agreement of the officers of fire insurance companies; in other words, if the anti-rebate idea is to be enforced, isn't it better to have the State enforce it than private individuals? A. I can answer that by asking you a question. Do you think rebating has stopped in life insurance?

Q. I don't know, but if the rebating in life insurance were discovered and proved, the license would be taken away from the agent for it? A. I am not in the life insurance business and know nothing about life insurance, but I do believe in insuring my own life, and there is not a week or two passes that some life insurance man does not come in and offer to insure my life, and I have no license, and offers to give me a rebate.

Q. Sometimes you find a situation, do you not, where brokers are officers of companies? A. Yes, sir.

Q. Do you think if a broker had the advantage, such a broker,

an officer of the company, saw a large piece of business that he could get by a rebate, that the Exchange would be liable to revoke his license? A. In my experience as a member of the brokerage committee I had nothing like that come up. I know very well what I would do with him because I am opposed to employers of companies having certificates; I do not think it is fair to the company.

Q. In fact, you are in disagreement with the prevailing method as practiced in the Exchange? A. Well, the president of the Continental Insurance Company believes that employees of insurance companies should have certificates, and there are a number of others; I find myself in a minority on that, I admit. I am opposed to any employees of insurance companies acting as brokers, or having a broker's certificate.

Q. Did your experience on the brokerage committee show you that there was very much embezzlement of funds or the stealing of premiums by brokers? A. A great deal.

Q. A great deal? A. Most of the brokers in this city, that were brought before this Committee, were for this same thing. That was the very greatest trouble.

Q. You think it would be useful to require of a broker any kind of a bond when he is licensed, so the insured could recover on the bond? A. It would be a good idea if it could be worked out.

Q. It would be quite a good departure, would it not, from anything now on the statute books to require such a bond to be given? A. It would be a good idea to protect the public in any way you can, because the courts have decided that a broker is the agent of the assured, and we are powerless. We have cases coming up of that kind every few days. We are perfectly helpless. A broker confiscates a premium, and there is nothing for us to do but cancel the policy, and we have insured the property sometimes for three or four months, and get no return in premium for the protection we have accorded the assured. We can't do a thing. The only answer that we can give him is that he can have him arrested for larceny, but we can't touch him.

Q. Mr. Waters, on the stand the other day, testified that the idea that the company should pay brokers, was all wrong, and suggested that the brokers should be paid by the parties whose agent he was? A. It would be a mighty good idea.

Q. You agree with that thoroughly? A. If it could be worked out; it is impossible.

Q. You think it is impossible because of the number of brokers doing it the way it is done now? A. No; not for that reason at all.

Q. What is your other reason? A. Well, I don't think when you go to the assured and ask him to pay a fee to the broker for obtaining the insurance for him, I think you will find the public will do the most squealing.

Chairman MERRITT: You mean they won't do it themselves?

The WITNESS:. That is it exactly. They will not come to the office of the company to get insured in New York city. They won't do it.

Q. Well, of course, under that plan of allowing him to pay the broker, he could charge them and still solicit other business, could he not? A. Oh, yes.

By Chairman MERRITT:

Q. Speaking of your bond matter; this Fire Insurance Exchange is practically a pretty efficient institution; succeeds in doing things in its way pretty effectively; isn't there any way by which that organization could deal with such a situation as that, directly or indirectly? A. You mean themselves bond him, through the Exchange?

Q. Yes, and couldn't they interest themselves in such a way as to bring these people to it? A. I don't see how they could. I don't see how it is in the policy of the Insurance Exchange.

Q. Well, all things that affect fire insurance; anything that ought to be done, could be very effectively assisted by their support, I should think? A. I don't think we have any right to look to any one to protect us against such a thing as that, except the courts, or this Committee, or the Legislature. You see this is a New York State company, operating in this State, and operating under our safety fund law; and if a bond company can say to us, "Unless you buy our bonds, we will blacklist you, and take you off of our list of accepted companies, and force the owners to take insurance with the companies that buy our bonds, whether it be a Georgia company or an English company, or from some other place, a foreign company, we are in a bad way.

Q. Well, a statute that would hardly extend to a bond of companies authorized to do business in this State, would be in the nature of a regulation of the bonding company, wouldn't it? A. I don't know as I catch you very well.

Q. Suppose it were provided; suppose it were a law, and were a good law, that they must accept the bond, to prevent this blacklisting, that they must accept the policy of a company properly licensed, and that was in good standing in this State; that would be to some extent a regulation of their business. A. It might be so construed.

Q. I asked a witness the other day, touching on this question of the regulation of rates, whether he could think of anything that might be done for the benefit of insurance companies, in consideration of something that might be done to the insurance companies. He said it could not. It occurs to me, there is something? A. It strikes me that a law which says to the Lawyers' Mortgage Company, or any other corporation operating under the New York laws, or any banking institution — saying to them that they must accept policies in any company admitted to do business in this State up to the amount of its net surplus, in the aggregate, or something of that sort. Of course, it would be unfair to say to them they must accept policies without limit, because we have some companies in this State, take the Ohio General, of Toledo, Ohio, for instance, and a few others of the same sort operating in this State now, I don't think are worth a hill of beans. It would be unfair to them, and it would be unfair to their stockholders to force upon them the acceptance of any company admitted to do business in this State, without security, without limiting the amount to which they shall be compelled to take certain policies in certain companies.

By Assemblyman Foley:

Q. Why couldn't the Fire Insurance Exchange blacklist these other companies? A. The Fire Insurance Exchange has not any such power, and does not ever attempt to exert it. I wish they had; I would use it.

Q. Mr. Ross, are there any employees of your company, or of subidiary companies, that are licensed brokers of the Exchange? A. Of the Lawyers' Mortgage Company?

Q. Yes. A. I believe there are. I believe the Lawyers' Mortgage Company itself is a certified broker. The Title Trust Company are, I believe, too.

Q. I had in mind whether this particular company profited directly from premiums? A. I believe they do. That is a fact that hadn't occurred to me. You are quite right.

Q. You have disciplinary power over your members, have you not? A. I can't say that you could. The Exchange is only concerned in one thing. All I can do since I have been on the rate committee is the reducing of rates.

Chairman MERRITT: You raised them sometimes, too, didn't you?

(No answer.)

Senator WAGNER: Have you ever increased them?

The WITNESS: I do not think, gentlemen, there is a manufacturer in this city who isn't now paying about half for his insurance he paid twelve years ago. Woodworkers were paying four, five, and six cents to get insurance; they are getting it now for $2.20, $2.30, and $2.40. The Exchange has done a wonderful thing in forcing them to make improvements. You go to a woodworking establishment and find a swinging gas light, and we penalize him for that, 25 cents; and immediately the man's broker goes to him and says, "Your rate has been increased 25 cents, because you have got a swinging gas bracket, you are charged 25 cents for that; it hits up against a wooden partition;" and immediately he will telephone for a plumber; and it costs him half a dollar to change it, and you can go down to the Exchange and have the increase taken off. He can do that for a cost of say, 25 cents. Cloak manufacturers, furriers, woodworkers, all special hazards in this city, are paying less for their insurance to-day than they paid twelve years ago. And as far as underwriting profit in the city of New York is concerned, there isn't any. Taking fifteen years' experience there isn't any profit in the fire insurance business in New York city. Talking about the State regulating rates, it is perfectly absurd, unless you can regulate the moral hazard. You can't do that by law. You can't make a man honest, and you can't stop him from setting fire to a place by law. We have all we can do to keep our loss ratio down in this town. And the whole thing is to get a man to

make his risk good to get his rate down. Take the Edison people, and all these people paying 12 to 15 cents for their insurance, and they do everything they are told to do. Take the Knickerbocker Hotel, whose rate is only something like twelve cents, because Mr. Reagan does everything the company asks him to do; if they ask him to do a certain thing he does it. He may spend $500, and save $5,000 in insurance. Every application made to the rate committee for reduction of rate by anyone in the city of New York, whether he has a $5 policy, or a $5,000 policy gets the same treatment; he gets the same answer. That is my experience on the rate committee since the first of September.

Chairman MERRITT: There has been some testimony to indicate that there have been increases of premium; as a man testified yesterday with reference to a piece of property which he occupied.

The WITNESS: The fire insurance business is a business that you learn something every day in. The hazards are discovered by experience. There are certain assets that once we thought were harmless, and we found out they are not, and the reverse is the case. We find some things we have been afraid of, we find they are perfectly harmless.

By Chairman MERRITT:

Q. What do you think of a fire marshal law, for providing what they call the fire marshal law, which would be a statute establishing a bureau to investigate the cause of all fires, the keeping of some statistics, whatever experience showed were important, independent of any reports the companies might make, with some authority to the marshal to hold summary inquiry, subpoena witnesses, and so on? A. Well, we have a fire marshal law here now.

Q. You have in the city, I was speaking of a general one for the State. Do you think it advisable to establish such a law? A. No.

Q. I know you have a fire marshal here. Colonel Wray said yesterday it was his impression that the fire marshals in the cities didn't act unless called upon by a company? A. He is very much mistaken. My idea of the duties of the fire marshal here is to investigate when there is a suspicion of arson.

Q. And they do? A. And they make an investigation and try to find out if there has been any arson committed.

By Senator WAGNER:

Q. He has no relation to the insurance companies at all, the fire marshal in the city of New York? A. Not at all; nor is he asked by any insurance company to make investigations, any more than by other citizens. It is the duty of the fire marshal really to go and inspect every fire, if he thinks there is any suspicion about it.

Chairman MERRITT: Mr. Ross has answered a question I asked Colonel Wray last night; whether the fixing of the rate by the Legislature, or by an agent of the State, the fixing of rates, didn't amount to an attempt to disregard entirely the question of moral hazard. That is what you said it did do?

The WITNESS: The moral hazard is the main thing in the fire insurance business; the rate isn't much. In fixing the rates we have to disregard it entirely. Therefore, how can an official of the State make rates? There is one place where a man has failed two or three times, and had three or four fires; and next door is a man who has been straight, pays his debts, takes care of himself, and watches his business closely; will you give both the same rate? Under our way of doing business we do; under the way the Exchange operates we pay no regard to moral hazards; that is up to the underwriter.

Q. You mean the company bidding for that insurance? A. That is all we can do, and that should be our privilege as long as we are jeopardizing our capital.

By Senator WAGNER:

Q. You haven't any figures with you showing what your premiums received were during the last three years, and what your losses were? A. I haven't anything with me on that question, excepting with regard to the Lawyers' Mortgage Company. It was understood that was the only thing I was to bring.

Q. You said the business wasn't profitable? A. I say, after fifteen years experience, you will find there was very little money in fire insurance in the city of New York. And if the companies

are much more taxed and hampered, and bothered, and another conflagration comes along, there won't be any insurance companies left. Only that the superintendent of insurance of this State used great judgment, — if he had done his full duty without regard to judgment and good sense, a lot of companies in business to-day would have been wiped out; but they got an opportunity to recover, because of his good horse sense and judgment; and saved the public, the people of San Francisco, and of New York city, who had unexpired policies, he saved them their money by using good sense and judgment. But if he had shut right down on those companies they would not have been in business to-day, and good old Hartford is one of them.

By Mr. Hurrell:

Q. Do you know whether the same courteous treatment was accorded to citizens generally by the rate committee of the Exchange before you went with it? A. I assume it was. I know nothing about what happened before I was on the committee.

By Assemblyman Foley:

Q. Your personal experience was that they were well treated? A. Every letter that comes before the committee since I have been on it, and I think it has been pretty near the case always.

Q. I meant previous? A. I understand that has always been the practice.

Mr. Hurrell: No more, Mr. Chairman. We have no more witnesses.

Chairman Merritt: The Committee stands adjourned until eleven o'clock Tuesday morning.

THIRTIETH PUBLIC SESSION OF THE LEGISLATIVE INVESTIGATING COMMITTEE.

ALDERMANIC CHAMBER, CITY HALL.

NEW YORK, *December* 13th, 1910 — 11 A. M.

Present — HON. EDWIN A. MERRITT, JR., *Chairman.*
HON. ALEXANDER BROUGH, *Vice-Chairman.*
HON. VICTOR M. ALLEN.
HON. ROBERT F. WAGNER.
HON. FRANK L. YOUNG.
HON. WILLIAM W. COLNE.
HON. JAMES A. FOLEY.

HON. M. LINN BRUCE, *Counsel.*
ALFRED HURRELL, ESQ., *Assistant Counsel.*

Vice-Chairman BROUGH: The Committee will come to order.

Mr. HURRELL: Mr. Chairman, I have to inform you that Judge Bruce is confined to his house to-day by a severe cold, and will not be in attendance. Mr. Markham.

GEORGE D. MARKHAM, called as a witness, being duly sworn, testified as follows:

By Mr. HURRELL:

Q. Mr. Markham, what is your business? A. Fire insurance.

Q. Where do you reside? A. St. Louis.

Q. Is your business located in that city? A. Yes.

Q. How long have you been in business there? A. Twenty-nine years.

Q. In what capacity are you connected with the fire insurance

business? A. Local agent and attorney and manager of the Individual Fire Underwriters of St. Louis.

Q. Have you ever held public office? A. Four years in the City Council; the upper house of our Assembly from 1901 to 1905.

Q. That is the City Council of the government of St. Louis? A. The Municipal Assembly, yes.

Q. Are you connected with any other business in St. Louis except fire insurance? A. I am a director in the Mercantile Trust Company, and the Mercantile National Bank.

Q. Have you held any other office of a public nature in St. Louis? A. Well ——

Q. Were you connected with the World's Fair in any way? A. I was a director of the World's Fair.

Q. Do you belong to any civic body out there? A. I am president of the Civic League now.

Q. You spoke of your underwriters, as to the name of them — is the name of them the Individual Underwriters? A. Individual Fire Underwriters of St. Louis.

Q. Now, will you explain that business association or entity, or whatever it is? A. Shall I go into it fully?

Q. If you please. We want a full record, and full description of how it operates, what it does. A. In our business as agents, handling lines of insurance for large customers, we were compelled to send many orders on excellent business to unlicensed companies, to London Lloyds, and other places, and we thought that there was enough similar business throughout the United States to make place for a high grade indemnity institution that would operate solely on the choicest kind of true surplus business. The risks that were applying for insurance more than the licensed companies could give them, only because the risks were big, and not because they were bad. We felt that that class of business would be profitable, because, being large, it pressed up against the available quantity of insurance, and would, therefore, probably be rated fairly full. We felt also, because it was seeking insurance, we could obtain it at a non-competitive expense account, so that there was some money to be made in that class of business. At the time I organized it, some of the gentlemen that

came in with me wanted to make it a stock company, but I told them if they had confidence enough in me to offer me a million dollar stock company, they had better take my word for it that there was no money to be made in the general business. I have been in the business twenty-nine years, and I have seen no new first-class unit come up in that period for competitive business. Many have been started but none have survided.

Q. The big companies were in the field before them; is that what you mean? A. Yes; all the first-class companies that are operating to-day were in existence when I came into the business, and those that have been started since have not been able to survive the strain, except some that are alive now, but that have not lived long enough to test out the proposition. That was my judgment.

Q. When was this organized? A. In 1902.

Q. Now, you spoke a moment ago about "the true surplus business." Why did you use the word "true?" A. Because the term "surplus business" is very much abused; because many companies pretend to do a surplus business, and are in most case writing business that comes to them because it is so bad the licensed companies won't write it.

Q. You mean that it is good business, but can't get insurance? A. We wanted to write only the good business, that was so big that after exhausting the licensed insurance, it still needed additional covering, and we wanted to keep away from the business that would be written locally if it was good enough for the licensed companies to take it.

Now, when we started on this venture we organized it under the Lloyds' form, principally for the reason that it was more convenient, and it was not subject to restraint as an incorporation would be; an incorporation falling under State laws in many ways. We could do it for the class of business which we were going to write, because, by our definition of our business we were seeking only customers of the highest mercantile standing; that is, the big merchants and manufacturers; and they could discriminate between our company and the unworthy Lloyds. The fact that we were in the Lloyds' form would not hurt us with our intelligent grade of insurers, whereas, if we had been going to write com-

petitive business, the Lloyds' form might have been a very poor way to organize. I had fought Lloyds many years, and had learned their weak points, so that when I organized this thing I covered the three weak points of Lloyds. In the first place, all the papers that our people sign, which are the legal foundation of the indemnity, instead of being secret, as all Lloyds' papers had been up to the time I formed this company, and up to the time that New York required such papers to be disclosed, were filed at the Mercantile Trust Company, and we provided in our policy that the assured could examine those papers, or could have a copy of them on demand. I considered that that made a legal publication, and tied the policy direct to the underwriters. We met another weakness of the Lloyds' form in the following regard: Where a number of men under a Lloyds' policy issue a contract, some may be good and some bad, and the assured cannot tell. We provided in our contract that in addition to a man's own liability, which was unlimited in any way, except it stopped at $40,000 for each individual of the twenty-five men, we provided that a man would not only be responsible for his own share, but that he would be liable for his proportionate share of the uncollected individual assessment of any of the twenty-five; bringing the contract very close to a limited partnership, and that provision enabled us to handle the third weakness of Lloyds', namely, that a man might have a contract with Lloyds' individuals, and one of the individuals died, whereby he might, in the last extreme, have to go into the Probate Court to recover. We provided that when one of our underwriters died he cut out automatically; and his liability went to the other twenty-four men, they taking over each their proportionate share of the dead man's liability of his unearned premium; and the papers bound his estate to accept the settlement of the estimate of the unearned premiums made by the advisory committee. Of course, it was impossible to do that in our contract with the customer and the customer was safe in agreeing in his contract to take the new man that came in, because when the new man came in he was endorsed by the other twenty-four. That was a substantial improvement in any pre-existing Lloyds' contract, because it assured the policyholder that every man in the group must be good, or the other twenty-four would not accept the liability for him.

Q. And that is quite distinct; that is not the ordinary way that Lloyds write their business? A. No, I think the inter-guarantee and the cutting out of the dead men are both unique. Now, we also provided, of course, that the advisory committee could expel from the underwriters a man who became insolvent or unsafe. If these men were going to guarantee each other, then the committee must have the right to put out any man that became bad. And the policy contract provides that in case of expulsion, as well as of death, or in the case of retirement, a man is relieved and a new man takes over the share. Another unusual feature, as long as we are on these peculiarities of this contract — another unusual feature is that all the income of the company is retained until the end of the year. Nothing is paid to the attorneys for promotion or management, until the end of the year.

Q. And then, how much is paid? A. Then, at that time, a full *pro rata* re-insurance reserve is set aside; first, enough to cancel every outstanding policy on that day; and all known liabilities are covered by sums set aside. What is left is net profit, and of that the attorneys get a proportionate dividend.

Q. How much beyond those specific things you speak of, do you keep, if at all, in the company's fund? A. Well, they haven't cared to accumulate much of a surplus, because there again the intelligence of our customers makes it unnecessary for us to dazzle them with big figures. They can estimate the value of the indemnity intelligently.

Q. That is, they don't need a surplus there to convince them they are safe in dealing with your concern? A. No. We, as a matter of fact, keep a full *pro rata* insurance reserve, and about two-thirds of an additional *pro rata* insurance reserve, as a net surplus. But that is a matter of convenience and we feel no necessity for it.

Q. You mean, you keep in addition to the *pro rata* premium reserve, about? A. Two-thirds as much again.

Q. Would you be in a position, if the laws of this State were such that your company could come in here; is your concern in such a condition that it could comply with any reasonable requirement for a deposit in the home State, or anything of that kind? A. Yes, sir. When we began we were unwilling to begin unless

we were fully licensed by the Missouri Insurance Department; and we complied with more than the requirements for a stock corporation; and have been licensed from the beginning by the Missouri department.

Q. In what way did you comply with more than the requirements? A. The Missouri law requires $100,000 of cash capital for a stock company; we have $250,000 on deposit in the Mercantile Trust Company.

Q. You mean, your two-thirds of unearned premiums amounts to about $250,000? A. No, that is clear capital; that is money paid in at the beginning. Our men were liable for $40,000 apiece; they paid up $10,000 of it at the beginning, which, for the twenty-five men, makes $250,000; that is on deposit in the Mercantile Trust Company of St. Louis.

Q. And always has been from the beginning? A. Always has been. The Mercantile Trust Company certified to the State department that it was there; and we satisfied the State department that we had more than the State required of a stock company.

Q. So in addition to that you have got this $250,000; your unearned premium fund, then as a surplus one, of about two-thirds of that fund? A. Yes. As a matter of fact, our last statement showed about $315,000, money in hand.

Q. Besides that you have this unlimited liability up to $40,000 each? A. $750,000, on call and inter-guaranteed.

Q. How do you do your business with a concern, that is, how does it do business with the public? A. Well, it does not need any agents anywhere, because the business is seeking it; we have deputy attorneys in Chicago, and a deputy attorney in New York. He, however, cannot take any business here, except on affidavit risks, as you understand.

Q. That is under section 137 of our law? A. Yes.

Q. Now, you do some affidavit surplus line risks here, do you? A. Yes, but very little. It amounts to nothing. We are of slight use to New York, and it is of slight use to us. We applied for entrance to New York several times, offering to demonstrate more than the strength required of stock companies, to submit to examination, and pay taxes; but the Insurance Department up to this time has declined to admit us on the ground they did not have legal warrant to admit that form of institution.

Q. Now, if you were admitted, Mr. Markham, do you suppose that your Lloyds would be useful at all in competing with the present companies? A. We cannot compete. Because we do not wish insurance until the stock companies, the principal stock companies, are fully interested. And we are automatically defended against going into competition, because our commissions are lower than the stock companies. We don't wish to pay a competitive commission.

Q. That is, you are not in the field to compete because it is too expensive? A. Well, we don't want to. We don't want to write the risk until the principal stock companies are all on it trying to keep it from burning, and we don't want to write a risk unless it is so large and successful — I will reverse that — so successful and therefore so large that it needs the cover of the principal stock companies, and us besides.

Q. You say the principal stock companies, or one of them, is a warranty company? A. No, any of them that are substantial; any of the well managed, successful companies, either American or foreign; and our policy requires the warranty that we get the same premium rate, and in return we agreed to abide by the adjustments of the quoted company.

Q. Do you know whether there is any demand for you among the merchants of New York, for insurance? A. I think there would be. I think many risks in New York have to take inferior indemnity, indemnity inferior to ours.

Q. Would you be in condition, with this surplus line of Lloyds, to compete, with, say, the London Lloyds on surplus line business? A. Yes, I think we would be chosen almost invariably by the assured, and the broker, in preference to English Lloyds.

Q. You have sent risks to London Lloyds, have you, from St. Louis? A. Yes.

Q. And you are familiar with their method of doing business? A. Yes.

Q. Can you say as a practical man that your Lloyds could furnish the insured here insurance at a cheaper rate than London Lloyds could? A. No, we will never operate at less than the tariff; because we require the warranty of a first class, well managed company. We won't write at any lower rate than the stock

companies. London Lloyds, as you know, often write at less than the tariff rates.

Q. What is your general opinion of the companies in the London Lloyds' form that take American risks, as to their stability, etc.? A. You do not mean to say the companies of the London Lloyds' form, do you?

Q. I mean the underwriters at Lloyds in London? A. What do I think of the indemnity furnished by English Lloyds, is that what you mean?

Q. Exactly? A. English Lloyds, as you know, is a room where many individuals gather to accept insurance offering. Those groups of individuals vary in character, from some that are unquestionably good under any circumstances, to some that are probably bad under any circumstances, and which you get depends on who underwrites your policy.

Q. That depends on your broker? A. Almost entirely.

Q. Are the conditions of such a hit and miss variety that the local risk will seek American insurance if it is to be had? A. I think so.

Q. That is what makes you believe that the broker and the assured would rather have American companies, or underwriters, than to go abroad? A. I think so; unless it was some "cheap John" buyer, shopping for a low priced article, without regard to quality. There is always some of that business being done, but it is a very small fraction of the total premiums.

Q. You know most of the big brokerage houses in New York and the country, do you not? A. Yes.

Q. Isn't it a fact that the local buyer of insurance has to rely very strongly upon his broker as to the selection of the fire insurance company or underwriters, that that broker puts him on? A. That is true, not only of New York, but of the whole country.

Q. A firm of reputable brokers could not afford to put their insured in with disreputable underwriters, could they? A. Not if they knew it, no.

Q. Do you know, in your experience, of that happening to any great extent; where underwriters at Lloyds, in London, that were put on a risk, or secured, by reputable brokers in this country, have failed to pay their losses? A. No, not to any great

extent. I think there have been only a few cases, because the usual brokerage house in New York, or anywhere else, is trying its best to avoid having a loss claim unpaid; trying to get good indemnity.

Q. How many States is your Lloyds in? A. We haven't tried to be admitted anywhere, except we sounded Massachusetts out, and they were ready to admit us. But if we couldn't get into New York, we preferred to have our contracts to continue to be St. Louis contracts.

Q. Have you any idea of how much you could help out here with the surplus line business, if you were admitted to do business here? You have got a general idea of the demand, have you not? A. Well, my idea would be not very valuable. I have always thought that if we were admitted to do business in New York, we might do twenty to thirty thousand dollars a year in premiums, because, you see, if we were admitted here we would not change our policy; we would not go into the business competitively. If we were willing to go into the business competitively in New York State we could do four times that amount.

Q. But you don't want to do that? A. But we don't want to do it. My belief is there is no money in the competitive business, at the expense, and at the existing rate level. Our only chance to make money is to get this class of business which is free of moral hazard, which is largely sprinkled, and which because it presses up against the limit of insurance, bears a fairly full rate.

Q. Do you believe that this State would be wise in permitting the organization of new Lloyds, under proper restrictions, to do a competitive business, or to go into the business of insuring originally? A. I have never been able to see any objection to the form of organization, so long as a head of that form of organization is the cash money required of a stock company. In other words, if I can come into the State, or if a Lloyds was organized in this State, and provided all the security which would be required of a corporation, I have never been able to see what difference it made what the form was that lay in the back ground, whether it was a corporation, or an association or a partnership, or anything else. I don't think any company ought to be allowed to do business anywhere without the minimum of funds required

for stock companies; and it ought never to be allowed to do business without the inspection of the Insurance Department, and without paying its full share of taxes.

Q. So, you would say, if there was to be any new organization of Lloyds, they ought to do substantially as your Lloyds have done? A. Yes.

Q. Put up a cash deposit, so the total fund would be equal to the capital of a stock company? A. Surely.

Q. And then make the same requirements of them? A. Surely.

Q. Would you have any requirement as to the net worth of each underwriter? A. Beg pardon?

Q. Would you have a requirement in the statute of the net worth of any underwriter? A. No, sir; because there again you are going beyond what you would require of a stock company. You require of a stock company that it have certain assets — capital and certain reserves. Now, you don't know anything about whether that company can raise any more money in the event of a strain; and for that reason, you should allow your Lloyds, or any other form that may be invented, to do business, if it provides the same amount of cash and reserve as the stock company does.

Q. Have you a copy of your agreement with you? A. Not with me. I will be happy to submit it to the Committee.

Q. I wish you would make a note of that; that is, the agreement which sets forth the liability, the total liability; if any one fails, and so forth? A. Yes.

Q. Do you care to say how large your local agency business is in St. Louis, as to premium income? I won't press that. Are you the largest agents in St. Louis? A. I cannot tell you, there is no way to know that. I have no objection to saying, in all kinds of business in our office, we do just under a million dollars of premiums.

Q. You represent New York State companies? A. Yes, sir; several.

Q. What are some of the companies? A. The Queen of New York; the North British, and Mercantile of New York, the Liverpool, London and Globe of New York, the Northern of New York, the Colonial of New York, the American Lloyds of New York, and the Assurance Company of America of New York.

By Chairman MERRITT:

Q. You said in the beginning, as I came in, something to the effect that you chose this form of underwriting, in preference to organizing a stock company, because, as I understood you, you didn't believe there was any money in the competitive business. A. Yes, sir.

Q. What is the difference between such a method as you have of handling that particular kind of insurance you seek, and a stock company which does the same sort of thing, except the stock company has to go into competitive insurance; why shouldn't you do it as a stock company? A. I didn't intend to say that the reason we took the Lloyds' form was because the stock company could not do business on the same line.

Q. You put it the other way. You said you didn't want to go into the competitive insurance, and, therefore, chose this method; and I wondered why, inasmuch as you seemed to have no less liability, individually, perhaps greater than the stockholders in the ordinary corporation, and you have got just as much to pay, why wouldn't it have been just as well to have organized a stock company, and do it that way; what was your object in adopting this form? A. Because under this form we can meet to-morrow,—or the day I get back to St. Louis, we can call a meeting of the advisory committee, and by resolution shut the thing up. If a stock company is to be closed, you know all the time it would take. We can change our contract; we have absolute freedom.

Q. It is more mobile? A. More mobile, absolutely. If you are going into the competitive business, as a business proposition, you are compelled to incorporate, because you have to enter all the different States, and that is the form which commands general public confidence. Because our appeal was only to the intelligent group of large manufacturers and merchants, we felt that we would gain nothing by an incorporated form, and we would be annoyed by many restrictions.

Q. I suppose in the practical management of it, it is most a blind pool? A. Yes.

Q. There is one man to handle it, who handles it? A. The advisory committee in our association are very active. They take — for instance, we have two meetings a month, and before

every meeting a complete list of the risks accepted are sent in carbon copy to these gentlemen. And I know from frequent experience they look them all over very carefully, and they frequently object to risks taken, which are invariably canceled on any objection from any member of the committee. We would not have a risk burn after a member of the committee objected to it. So we always play the safe side and take it off.

Q. You decline the risk? A. Yes, simply decline the risk, We occupy a different position to the business, with our management, than managers of companies. Because, as I told you, we are paid only out of a share of the dividends. It makes no difference to us how big the business is, we are only interested in the net earnings.

Q. You are supposed to make money? A. We have to make money. I will explain why, as it might interest the Committee. These 25 gentlemen that comprise this Lloyds are really a distinguished group in St. Louis. Ex-Mayor Wells, the Honorable D. R. Francis is one, and the presidents of three or four trust companies. And when I formed it, while I felt reasonably certain that the thing was going to work well, or I would not have put in the four years' work I did in getting it established nor would I have taken the practical charge of it; still I wasn't certain, as you never can be about a business proposition. I said to myself, I didn't want, if the thing went wrong, to have men of that caliber in St. Louis see me on the street, and say, "There is that fellow Markham; we lost money in the game, but he feathered his nest." I wanted to be on the basis, where, if it didn't turn out right, I, as an underwriter,— for I am one of the underwriters, would have suffered as much as anybody, and our concern would have made no money whatever.

Q. If they lost their money, you would have lost your time? A. Yes. It has turned out, however, to be a very safe, and successful thing, owing, I believe, to the fact that it was largely confined to successful business concerns. We have taken in from October, 1902, to December, 1910, $726,000. I give net figures, and the losses have been $335,000.

Q. You do not take factories, do you? A. Oh, yes; we write — we only exclude two or three descriptions of total loss risks, which we think are not profitable.

By Mr. HURRELL:

Q. So that you are doing business on what is called the contingent basis? A. Well, I prefer to say that we are paid out of a share of the dividends.

Q. That is substantially the same thing? A. Yes; we are on the same basis with the underwriters.

Q. And you confine your writings, your insurance, to the very point where it is most needed? A. Yes; because I think that is the only place there is any profit, and under any circumstances, we will never depart from that basis. If we cannot get enough premiums and make enough money out of this class of business we will cease business. Now, you were asking about the advantage of the form. I have always felt that it is possible that some day New York may have a very disastrous fire. I know you gentlemen in New York do not think so, and a good many of the underwriters do not think so, but we that come out of the West and look at the town feel that, given a cold night, and a high wind, and the thing starting in the right place, you may have a very disastrous fire here on account of the close congestion. Now, we have in New York, all told, a small line. Even in Chicago, where we are writing freely, we have only, say half of our total strength at risk. Now, the morning after a great fire in one of these cities, under our form, our committee can meet, we can call the underwriters for an additional subscription, and put the money right in bank, and we can telegraph all over the United States that our losses were $400,000, and the money has been deposited. Now, while these stock companies are giving thirty days' notice and trying to get their stockholders to agree to put up extra money, there we will stand strengthened and ready to take over the premiums on insurance which timid people will want to bring to replace their shaky stock points. See how the freedom of the thing works?

By Chairman MERRITT:

Q. It is good as long as you are sure of your members? A. Well, nobody knows what they are worth, but the lowest estimate I have heard put on the twenty-five is sixty millions.

Q. That must be a nice lot of people to represent? A. Certainly.

By Mr. Hurrell:

Q. Do you suppose that there is anything in your form of contract and organization which might be abused if it were entered into by men not worth sixty millions? A. Well, I don't think that the form that lies behind the cash strength of a stock company is material. Suppose two Lloyds were formed under this exact form, one of them was men of our type and another one was worthless men, they would each have the minimum strength required of a stock company, but the one with the strong men behind it would have a credit which would give it the confidence of everybody, and the other one would be recognized to have no strength beyond the actual money in hand, and the public would discriminate in the buying.

By Chairman Merritt:

Q. Do you concern yourself with the making of rates at all, any other than to ascertain — you obtain the rates given by the stock companies? A. We are willing to write at the rate that any high grade company is writing that risk at, because I know they practically write all these risks at the same price, the well managed companies.

By Senator Colne:

Q. That style of company would rightly be termed one with an elastic capital, while the others are fixed? A. That is right, sir, you have phrased it exactly. Of course these men that are in this particular Lloyds make the limitation of $40,000, but there is really no limitation, because they will protect their contracts under any circumstances, but that is a matter of personal honor which may exist or may not exist according to the character of the individuals, and there is no way to ascertain it except by the lines of inquiry on mercantile credit, as you would in any other proposition.

By Chairman MERRITT:

Q. What has been the effect in the insurance situation in St. Louis and in that region where you particularly practice, as a result of an organization of this plan? A. Nothing whatever.

Q. Has not affected it in any way? A. Not at all, because we, not being competitors, have no effect on anything, except to cut off the flood of insurance from more distant and inferior ——

Q. (Interposing.) It has kept the insured's money all in St. Louis? A. Yes; but we write very little in St. Louis. Risks there have been so remarkably improved in the last twenty years that practically all the large risks are carried by the licensed companies, and there is very little business for us in our home town. We have pull enough there so that we could get orders all over town and fill ourselves up, but we would then go in ahead of the licensed companies, which we do not wish to do, the reason being that if we can be recognized by the stock insurance interests of the United States as being permanently and undoubtedly non-competitive, then all over the United States they will direct their customers to us with their surplus business.

Q. All friends? A. All friends. If on the other side, in our town, we went in ahead of them and deprived them of writing, then our pretense that we are non-competitive would be discredited, and properly so.

Q. You write about the same volume of business in comparison with the capital involved as the stock companies? A. Less; our premium income in the last year was only $62,000, and we have got $313,000 of money. That, however, is temporary, because of the present low state of mercantile stocks, and for the fact that the stock companies are getting a thin income all over the country, and have expanded their writings on the big risks to try to keep up their own income, and that has made our market — —

By Mr. HURRELL:

Q. (Interposing.) Don't you believe there would be a field for such a Lloyds as this to operate in competition, in the small towns throughout the country? A. I think that there is no field

for competition for anybody as against the old big companies. I think that the next five years are going to drive out a third of the companies, because while the total measure of indemnity is needed in a few large points, and in a few big risks, it is very excessive for the country at large.

Q. That is, you mean the insuring capacity of the companies is so much more than the portion outside of the big city needs, that they are thrown into competition there? A. Yes; and that the situation to-day is such that there is no chance for anything but the best managed big companies, with a fine reputation before the public. Many men will differ from me on that, but I am giving you my view. I think we are going to see a squeeze.

Q. We will come back to that in discussing the situation generally. What is the National Association of Local Agents, and who are its members, and what does it aim to do? A. The National Association was formed in 1896 in Chicago, by fifteen or twenty men, local agents who meet there, on call, to try to unite the influence and strength of the local men, to prevent certain abuses that were then coming into the business. There seemed to be a need for it, it grew, and is now an excellent association, which can be fully described to you by the secretary, who is here.

Q. Have you been an officer of that society? A. Yes, sir; I was president for two years.

Q. What are you now? A. Chairman of the legislative committee.

Q. There is a complaint before the Committee, Mr. Markham, that the commission paid to agents throughout the country by fire insurance companies are excessive, and particularly the complaint comes from one of the merchants' associations here in this city. I presume you are acquainted, are you, through this association, with the rate of commissions paid in various parts of the country? A. Yes.

Q. And know considerable about it? A. Yes, sir.

Q. And have heard it discussed by your fellow members of this association? A. Yes, sir.

Q. Before asking your opinion on the whole subject, what is the rate of commissions current to the local agents? A. What is called the graded commission in the country.

Q. You are under the jurisdiction of the Western Union? A. Yes, sir; St. Louis is an excepted city, our commissions are open. I have no objection to stating that the commissions that we get in our office as a general thing are no higher than the graded commission that is paid throughout the State.

Q. What is the usual rate you enjoy — the same rates that the other agents in St. Louis get, do you? A. Of commission?

Q. Yes. A. Yes; I think some of them get more than we do.

Q. What is the basis there — that is, what are the rates paid in St. Louis? A. Well, the contracts are different for different companies, and in different agencies.

Q. There is no uniformity in it? A. Not at all.

Q. Is there any uniformity in the State? A. Yes; that is governed by the rules of the Western Union. I don't know whether that is a rule now or whether it is a concurrence between the members.

Q. You mean a uniform practice? A. As I understand it now it is fifteen — I declare I cannot quote it accurately, but I have never been in contact with it, but you can get that information from any insurance manager.

Q. What is your opinion of the question of expense as applied to agents; do you think the country over that commissions are too high to agents, and that they can be reduced with safety? A. I have always felt that the commission paid to insurance agents was a thing which was bigger than agreements or anything else. It shook down until that labor was paid right as compared with other labor, and the process was so big that it was inevitable. I never have taken much stock in these efforts to change it one way or the other. The payment of an agent out in the country is certainly small enough. In some agencies in the cities there is an overpayment of commissions by companies that are especially anxious for a certain line of business, but those are the exceptional cases. An agent in a small town will get a higher net commission to himself than we have in St. Louis, and he should, but it is a small business.

Q. You mean the companies pay you a smaller rate in the cities than they do in the country? A. No; but in the country almost all the business a man does he gets himself from the cus-

tomer, and he gets the whole commission, and it is his profit less the expense of his office. But in St. Louis, where we know only a few of the people who own the risks which our companies are needed on, the business on these other risks comes to me through other agents, and I must pay a commission to the man who transacts the business. So that when you take an average of my commissions and take off my expenses, I have a less amount left to me than the man in the small towns.

By Chairman MERRITT:

Q. You pay the brokers —— A. Twenty odd years ago we forestalled the broker by agreeing in our local board that anybody who was not an agent must be attached to an agent as a solicitor. They are attached to the agencies and become employes of the agencies, so the interchange of business is between the agents. We have, say, half a dozen men in our office that are outside men, brokers, but so far as any other agency is concerned, when their business overflows our office, and goes to another agency, it is Markham & Company's business, not the solicitor's business.

By Mr. HURRELL:

Q. You speak of forestalling the broker; don't you believe in the system of doing business that maintains in New York, where the business is done through the broker? A. I think our system is more healthy. I do not know that it would have been applicable to so large a community. The reason that we were able to forestall the situation and control it was because we had an example of what we regarded as an abuse in New York and Chicago, before it began to creep into St. Louis.

Q. Wherein do you consider it an abuse? A. We thought that the man who was not an agent of the company and had no stake in the correct running of the business in that locality was likely to be a destructive influence in the market — that he was likely to be — not caring what he did, so long as he made his commission.

Q. You spoke a moment ago of St. Louis being an excepted city. I take it that you mean by that, that the same rule that applies in Missouri does not apply in St. Louis? A. That is right.

Q. Are you a member of the Western Union? A. No; that is a managerial association.

Q. Do you know whether all of the large cities through the Western Union territory are excepted? A. Yes; the principal cities.

Q. What does that result in, in the excepted cities? A. Well, the charge is made that the commissions are higher in those excepted cities than they are outside. I can only say that in our agency it is not true. Now, I rather think that in the conservative agencies in most of the other cities, you will find no great excess of commissions over the surrounding States. They were higher in the cities than they were in the country in the old days, when country commissions were confined to fifteen per cent, but since the union has established the graded commission, it has brought the country commissions up to where they are higher than in some of the conservative agencies in the cities.

Q. What led to the exception of these cities in the beginning? A. Well, the condition in the city antedated the effort to control the country, and they could not control the cities.

Q. What is the basis of the charge that you speak of that they pay higher commissions — was that what you said — it was alleged concerning the excepted cities? A. Yes; I hear that statement frequently made. Of course there is no — there are no figures anywhere to show what the condition is.

Q. Do you know that the companies were so anxious to get business in the cities that they were competing against one another on the commission basis, one company taking an agent away from another company, by paying him more commission? A. I think that came in later. That was not the cause of the cities being excepted. That was more the explanation of the multiple agency system which crept in afterward.

Q. What do you mean by the multiple agency system? A. When I first went into the business no company thought of appointing more than one agent in a locality. The appointment of an agent used to be considered a very important thing. I remember when the old Delaware came out to St. Louis, they sent their whole agency committee out to St. Louis to select their agents. It was regarded as a very important move for the company. The

business has greatly changed, owing to the increased minutiae of management to where they do not regard the appointment of an agent as such an important thing, and some companies have gone into the practice of appointing a good many in the same territory, and my belief is that that started the higher rates of commissions in the cities. My belief is that the rate of commission to be paid in a city is the result of equation of the number of people that want appointments and the number of appointments to be made, and if there are fewer appointments to be made than people wanting them, then the man making the appointments will be able to keep the price of the appointment low, whereas if you multiply agencies in a locality, to where there are more appointments to place than people who want them, then the men who are to make the appointments bid them up against each other, so that in the multiple agency systems in these cities, I think I find the cause of the high commission.

Q. To restate your theory it is that if only one agency were in that one territory it could make enough money so that the expense to the company of doing that business would be very much lower? A. Not only that, but if there were in St. Louis only 150 appointments—there are that many companies in St. Louis—everyone of them could be readily placed at a lower rate of commission, because it would be a valuable business franchise.

Q. Of course what is true there, is true all over the country? A. I think so, in the excepted cities.

Q. Do you represent non-union companies in St. Louis? A. We in St. Louis don't know the distinction. I could not tell you which of our companies were union and which were non-union.

Q. Have you any other ideas as to how the high rate of commission can be lowered — you mentioned one here, growing out of this multiple system — is there any other method that the companies can adopt, in your opinion, to reduce this expense? A. I don't know of any.

Q. You are fairly familiar with the insurance laws of your home State, Mr. Markham? A. Yes, sir.

Q. I understand from the evidence already before the Committee that Missouri is an anti-compact State, is that true? A. Yes, sir.

Q. Were you there doing business before the Anti-Compact laws were passed? A. Yes, sir.

Q. Can you tell the Committee what your impressions of the workings of the Anti-Compact law are, particularly as they concern the average rate of fire insurance? A. Dissatisfaction throughout the State of Missouri with the existing rating machinery, resulted in an agitation to pass the Anti-Compact Law. We in St. Louis who, at that time, were operating a local board which had been in existence for twenty-five years, went around to our assureds, went to the business associations, told them that this law would wipe out the Board of Fire Underwriters. We were able to take to Jefferson City before the legislative committee, delegations including the presidents of all our city mercantile associations, who testified that the insurance rating problem was being handled in St. Louis to their entire satisfaction; that the pressure of schedule rating was bringing improvements in the physical hazard speedily, and that they petitioned the Legislature to not interfere with the process. Missouri, at that time, was in the height of the anti-trust excitement, and we were not able to check the passage of the law. That destroyed our local board. In those hearings we told the Legislature, that, in our judgment, no open market for insurance would result when they passed that bill, as they hoped would result. We told them that the insurance business had evoluted beyond the stage of open competition, and that by some means rates would be observed between the companies, and that, in our judgment, the passage of that law would simply mean that it would be harder to do business and that the interested hardness of doing business would be represented in the higher rate to the policy holder. The Legislature did not believe us at that time. I had the dubious pleasure of going up to two succeeding sessions of the Legislature, as the president of the Missouri Association of Local Agents, and trying to secure an amendment of the law. At each visit I was able to point to the sworn returns in the Insurance Department carrying out the exact fact which we prophesied, namely, that the passage of that law had resulted in an actual payment for insurance, not a rate or a price estimated, but an actual payment, as shown by the sworn return of business done in the preceding

year, more excessive as regards the losses than it had been previous. That demonstration has gone so far now — eleven years have intervened — that at the last session of the Legislature, Mr. John Kennish, a very able man, who was then Insurance Superintendent and has just been elected to our Supreme Bench, stated before the Senate committee that he was in the State Senate at the time the law was passed, and voted for it, but he had an idea at the time that it was a doubtful law, and that he had long since come to the conclusion it was a bad law and ought to be amended.

Q. That was the statement he made when he was Superintendent of Insurance? A. That is the statement he made to the last session, he being Superintendent of Insurance. I have these figures on that course of rates, if you wish to see them.

Q. I was just going to ask you. I do not understand whether you meant the average rate had gone up. You spoke specifically and emphatically of the actual payment. What do you mean by "actual payment?" Actual payment of what? Explain that, please. A. These figures — this average rate, as shown by the State Insurance Department, is ascertained by dividing the amount insured into the amount of premium return by the companies under oath, so that shows the facts as they actually did exist in the year preceding.

Q. You have the figures for the year preceding the Anti-Compact Bill? A. Yes. I will go back to 1896. Now, the important thing, in my judgment, in the State, is not what the rate is, or what the percentage of loss — well, not what the rate is, but how much excess there is in the rate over what the losses demand; what I call the spread between the rate and the losses. If your rates fit down closely in a series of years to your loss demands, then you are getting a close rate, economical rates fair. If the spread is wide between the loss demands and rates, then the rate on the average is heavy, excessive, and from the standpoint of the customer cannot be justified. And what happened in Missouri was, that before the Anti-Compact Law was passed, the rate fitted down snugly to the loss demand. There was very little space there.

Q. That is, the space was occupied by expense? A. Whatever there was. I mean — I should have added, expense on top of loss, but expense is not a flexible item. Loss is the only flexible

item, but the net margin in the rate is much heavier under the anti-compact system than it was before, and there is where the waste is from the standpoint of the public, and where the complaint may be made from the standpoint of the public.

Q. What figures have you there and for what years? A. The Anti-CompactLaw was passed in Missouri in 1897 for the State except St. Louis, and in 1899 was applied to St. Louis. We had an exemption from the 1897 session which was stricken out at the 1899 session of the Legislature.

Beginning in 1896 and running to 1902, the losses were 61 per cent of the premium on the average. Of course, when the law was passed in 1897, the effect did not become immediately apparent. It took two or three years to have the thing get to working. You gentlemen understand that premiums are paid in advance for a term of years on dwellings and those things, and when you make a change in rate it takes some time to make it appear, and so these figures go back to 1896, which was just before, and run to 1902, by which time it was fairly working. That is 61 per cent. Now, for the next seven years, 1903 to 1909 inclusive, the losses were 45 per cent of the premiums. Sixty-one per cent for the preceding seven years and 45 per cent for the second period of seven years.

By Senator Wagner:

Q. The same amount of business, about, do you know? A. Oh, a larger business; business growing. The average rate during the first period where the loss was 61 per cent of the rate is $1.12. The average rate for the second period was $1.17; the losses 45 per cent.

By Mr. Hurrell:

Q. That could be explained, could it not, by a superior construction and superior attention being paid to fire fighting, etc.? A. No, no, because the older period was the lower average rate, and the later period was the higher average rate.

Q. Well, did I understand you to say that the period up to 1902, showed a 61 per cent loss? A. A 61 per cent loss, on a

$1.12 rate. The later period shows a 45 per cent loss on a $1.17 rate.

Q. I shall have to leave that to the actuary, I think. It seemed to me that you are now having a smaller amount of fires. A. In other words, if you were going to have the same relative percentage of loss to premium, on 61 per cent, that rate ought to have been down somewhere about 95 cents average rate.

Chairman MERRITT: It introduced a new form of hazard for the insurance companies to measure; the statutory difficulty which they had to charge for.

By Senator WAGNER:

Q. Was it a hazard or fixed expenditure? A. No, I think——

Q. (Interrupting.) That is an additional fixed expenditure you had, hadn't you, that the insurance companies after the passage of the law had an additional expense to incur? A. They had to take their whole rating machinery and make it into a different form which it would take me some time to explain, and I would be glad to do it if the Committee wanted, but I should not think it would be of interest to you, but the second form ran higher above the loss and expense demand than the old form did.

Q. Well, what was it due to? Was it due to additional expenses the company incurred, or was it due to a gentleman's agreement? A. I can testify honestly as regards Missouri that since the time the Anti-Compact law was passed, the law has been observed. There has been no gentleman's agreement or underhand pledge of any kind on the rates. What common observance of these estimates has occurred has been simply the concurrence of men who knew if they did not concur they will eat each other up. There has been no dodging of the law in anywise in Missouri.

Q. Personally I would like to know what the reason was for this increase of rate after the passage of the Anti-Compact law, if it isn't too long a story? A. Well, I will try to tell you. This is my opinion. Of course there is no way to demonstrate the truth of this, but this is my opinion. In old days the rate machinery was local, every company paid its share of the expense of the rating machinery proportionate to the business done. No company thought of not being in the rating machinery. That was

beneficial in the further regard that it gave the rating machinery plenty of funds. Now, when the law was passed all that had to be abandoned, and when confronted with the problem of doing the insurance business without any indication as to what the individual risk was worth, there arose private business done by the men who had formerly been the employes that did this rating. They took it up on their own responsibility and continued the rating; took subscriptions from the companies for the rates. Now, the man did it on his own responsibility. The company subscribed for it if it wanted to, but did not subscribe for it if it didn't want to. The man operating that rating machinery, therefore, was desirous of having as many subscribers as he could, because that is the way he made his living, and my opinion is that the operation of that system raised the rates under the pressure of the fear of withdrawals if they did not satisfy the men with the highest ideas; that that is what lifted this level of rates. Whereas, in old days, there was a good deal of pressure on the rate machinery to keep it down; agents and companies that wanted to oblige agents and one thing and another. Under this system that is working in this anti-compact state, there is no pressure at all on the rate making machinery, except upwards.

By Senator Wagner:

Q. I see. You have got a private concern now that does the rating on it? A. Does the rating; yes.

Q. And that the companies accept? A. Well, but many of them do not subscribe so that the income is not adequate. The rate machine is both inadequate and it is not balanced correctly.

Q. Well, does your experience show that the companies who are not subscribing to this private concern are following the rates of the other companies? A. Oftentimes, and just scamping the expense. It is a melancholy condition. Undoubtedly the interests of the public, as long as the insurance business has come to a point where it will at all times be done under common rates — undoubtedly the interest of the public loses. The machinery should be adjusted to feel the influences from both ways; from the top and the bottom; from the company side and the assured and agent's side, and undoubtedly the interest of the public de-

mands that the rate making machinery have full support from every company operating in the field, so that the income may be adequate to do it right, because the public is entitled to have the rates made with the utmost degree of accuracy and with the best modern ideas.

By Mr. Hurrell:

Q. If that machinery were working as perfectly as you spoke of, Mr. Markham, in St. Louis, when you were able to get the presidents of the various merchants' exchanges to oppose the Anti-Compact bill, what was the prevailing reason that led to the passage of it? A. Principally the anti-trust excitement that at that time ruled — in 1897 and 1899 — ruled in the Western States. You will all remember that that anti-trust movement began out in the Western States and spread eastward. Secondarily was the fact that the existing rate machinery out through the State had not worked as smoothly as it had in the city, and had stirred up more ill will, and the people who had a grudge against the rating machinery seized on this anti-trust excitement opportunity.

Q. Well, what was your rate machine in St. Louis before this bill was passed? A. A local board.

Q. That is, operated by your local agents? A. Yes; by the agents.

Q. And supported in about the way our local exchange is here? A. Yes; same way; the expenses assessed against the companies in proportion to their premiums.

Q. And you say that after the bill passed, that your employes that used to work for the local agents in that machine started to make rates for themselves? A. The president took it over as a private business.

Q. Now, does the local agent — does he have anything to say to this — what do you call them, an independent rater? A. Yes; a rate estimater. The name of the St. Louis institution is the St. Louis Bureau of Insurance Surveys.

Q. This means one man running a private business? A. James A. Waterworth; yes, sir.

Q. Do the local agents have anything to do with him at all?

A. Oh, yes. We are in constant communication with him and constantly pressing on him the considerations which we discovered from actual contact with the business.

Q. Well, now, what kind of a contract does he make with the company in the first place? Does he make it with the company or with the local agents? A. No, with the company. He simply takes a subscription from the company. I have forgotten how much it is. The same subscription from every company. Some of the large companies that do a great deal of business in St. Louis, out of a desire to do the fair thing with the rating machinery, take two or three of those subscriptions, but that is very rough and very unequal, and some do not do it.

Q. What is the nature of his contract? When they subscribe for his rates, what does he contract to do? A. Give them the information on what he thinks is a fair rate on each risk.

Q. And does he sell schedules? A. He sends sheets to the companies giving the issue of these rates as they come out from day to day, and in the agencies in St. Louis the cards are changed in the cabinets just as they are here in New York.

Q. Does he agree with each company that each company that subscribes to his bureau will observe the rates he gives them? A. Oh, no, quite on contrary. He specifies in all his contracts that he is selling merely his estimate without any obligation on the part of anybody to observe them, and I am sorry to say that in St. Louis many of them do not.

Chairman Merritt: They take that rate and then make one to suit the case in order to get the business.

By Mr. Hurrell:

Q. The companies, as far as they are able — do they, by a gentleman's agreement, unexpressed, aim to observe the rates that that independent rater puts forth? A. No, sir, they do not. There are some that are quite liberally disregarding them out of the spirit of competition which exists with the utmost bitterness between the companies.

Q. And coming back to the cause that led to this general increase in rates, do you think that the independent rater that takes into account the tendency of the companies to cut under the rates

— that he therefore estimates and gives a higher rate, high enough to allow for that? A. He does not care what they do. He is only interested in having his rates, as they go out, satisfy them, and hold his subscribers.

Q. Well, one would naturally suppose that if he were fixing the rate which he thought ought to be a standard rate, and then the companies were taking that and cutting under it, that the public would be benefited, somehow, by securing lower rates on various pieces of property or different risks. A man who gets the lower rate is benefited, isn't he? A. Well, he may be, and he may not. It depends on what company he gets and what his contract is; what value his contract will turn out to be. Of course the bulk of the business in St. Louis goes through at the estimates. Our agency, for instance, observes them strictly.

Q. And then, of course, if that is true —— A. (Interrupting.) I do not mind giving the reason why we observe them strictly.

Q. Certainly. A. When we were confronted with the question of whether, in competition, we would cut on one man and charge nine other trusting customers the rate, we made up our minds in our office that if we did it we never could explain to the nine trusting customers why they were charged the rate, and we said that, so far as we were concerned, we were going to keep on perfectly open, fair, terms, as regards everybody that dealt with the office.

By Chairman Merritt:

Q. As I get it, your idea is that the independent rater is bound to make a rate sure to be profitable to every company, whereas under the old system, where their own agents made the rate, they could, with some sense, take a chance on a rate, perhaps? A. Well, the agents only made the rates in the city. Out through the country it was done by the rating machine the companies had control of — this is again my own opinion — because under the old statute everybody had to continue to support the machine. Therefore the machine had an independence which it has not got to-day.

Q. It could give the insured the benefit of the doubt if it wanted to? A. Yes, sir, didn't have to pay so much attention to the man who wanted the highest rates.

By Mr. Hurrell:

Q. Well, would you say as a local agent that you were in better position to give the individual, or secure the individual, an equitable rate which you had something to say about that local machinery? A. By all means. The situation in St. Louis without the anti-compact law was a great deal better for the customers and the agents and everybody than it is to-day.

Q. And on the discrimination features, as I got your last statement about this agency —— A. (Interrupting.) Much more rank to-day than before.

Q. Your last statement about all customers doing business through your office was that there was no discrimination as between them because you would not allow it? A. Yes, sir.

Q. But as between other companies and your customers there was a discrimination as to the fire tax? A. Yes. Everybody that deals with our office is so informed.

Q. And you say the bulk of the business is done at the schedule? A. At the schedule rates.

Q. Estimated rate? A. Estimated rate, and in many offices there comes this occasional discrimination.

Q. You spoke a moment ago about a company subscribing two or three times. What is that? A crude endeavor to give the rater what he ought to have to make a living? A. It is the plan of the Liverpool and London and Globe that is doing $120,000 or $200,000 in premiums — that they should not have the benefit of his service on the business and pay no more than the company that is doing $20,000 worth of business in St. Louis, and yet there is no reason why they should do it, except decency, because if they paid the minimum subscription they would have the service just the same, and some who do a large business subscribe only the minimum and get the results.

Q. Was there ever a suit brought out there against the fire insurance interests that you had personal knowledge of? A.

There was a celebrated case of — I have forgotten the legal title — it was known as the St. Jo case.

Q. What year was that brought in? A. Shortly after the law was passed; 1901 or 1902.

Q. What I am getting at is, was the independent rater then in the field? A. Yes, and I can't remember all the phases of that case, but there were some transactions of the agents between themselves in their effort to maintain the observance of the estimates in St. Jo, that, in the suit, were determined to indicate an agreement, and fines were issued against all companies in that suit, and paid.

Q. That was the suit that Attorney-General Hadley had against the companies? A. No, Crow, Attorney-General Crow.

Q. When was the suit that Hadley had out there against the companies? A. He made an investigation two years ago.

Q. Two years ago? A. Two years ago, yes.

Q. What was the status? What did he discover or conclude as to these independent raters? Was he looking for a gentleman's agreement between the companies? A. Between the companies, yes and found none. He prosecuted no suit.

Q. Showing that there was nothing but an investigation? A. That is all.

Q. In which the status of the independent rater —— A. Was established.

Q. Was an issue? A. Yes.

Q. And after this, the state you have been describing? A. (Interrupting) Let me correct you. It was not an investigation, especially on the independent rater. It was an investigation to ascertain whether back of the independent rater and between the companies there existed an agreement to observe the rates; but the evidence disclosed the fact that there was no agreement, and they were not being observed as well as they should be.

Q. And then, of course, the status of the independent rater was brought in? A. Yes.

Q. The question was whether the companies were in agreement to observe his rates? A. Yes, but his status was admitted generally throughout the whole proposition; that he was exactly what he professed to be; an independent man selling his services.

But the State thought that after the companies got his estimates and his service was completed, you see, that they then had an agreement between themselves to observe it.

Q. And no agreement was found? A. No agreement was found.

Q. So that the situation there is, after you are prevented from going into a combination, this man showed up, and you did buy his rates, and if you all observed the same practice you would have the same system? A. Exactly, but they do not do it.

Q. And the difference, you claim, was that there was an increase in the rate? A. I do not claim it; I disclose it state figures.

Q. Coming back to this 45 per cent: Your idea was that under the old rating there was 61 per cent of the rate going for losses, because the rate was low as compared with this other condition? A. Yes.

Q. Now the rate is so high that here is only 45 per cent of losses? A. Missouri bought her insurance closer to cost before than she does now.

Q. Have you the valued policy in your State also? A. Yes, sir.

Q. Do you know whether that has affected the rate one way or the other? A. There are no figures available to demonstrate that, but common opinion in the State is that it has raised the cost slightly.

Q. What is your opinion, as an underwriter and agent of the Valued Policy Law? A. I think it is all bad; I think no honest man wants to use it, and it only gives opportunity to the dishonest claimant to extract more than his fair share from the common insurance fund.

Q. Do you find it operates differently in the city than rural vicinities? A. Well, we are not bothered with it in the city, because the Supreme Court interpreted the word "destroyed" in the act as meaning that the destruction should be so complete as not to materially affect the expense of reconstruction, and in a city where there is a paid fire department, it very rarely occurs that there is a complete destruction of premises, so that the valued policy law, as a matter of fact, does not apply in the city.

Q. How long has it been on your statute book out there? A. I can't tell you; it must be six or eight years.

Q. You also have an Anti-Co-insurance Law? A. Yes, sir.

Q. How do you find that operates as a practical matter? A. Well, that is in practice used. The co-insurance clause, is, in practice, used on all large business, just the same as it was before the law was passed, but the assured knows perfectly well that the clause has no legal effect in this contract, but recognizing that it is a necessary element, in equalizing a fire rating he consents to its use; yes, welcomes its use.

Q. So the situation that is out there is that it is prohibited by statute, but the assured lets it go into his contract? A. Yes, it is not prohibited; that is, its use is not prohibited, but its value in the contract is nullified by law, but observed in practice.

Q. And that means that whenever a person carries this insurance clause and has a loss and finds he is not insured up to the limit, he is generous enough —— A. (Interrupting.) Bear his share. Yes, sir. In St. Louis not one-half of one per cent of the losses have shown any departure from adjustment under the co-insurance feature. In some sections of the State the co-insurance clauses are signed by both the assured and the company under a statute which was passed after the thing was abrogated.

Q. That is, permitting it under those circumstances? A. Permitting it under those circumstances, but that is a very laborious thing, and it is generally used, I think, without the signature. However, I am now testifying on a matter outside of my own district, and I may be incorrect.

Q. Well, have you ever heard of a man that carried this co-insurance agreement out there where it is practically nullified by the law, ever taking advantage of the law? Have you ever heard of any cases at all on it? A. No. At this time I could not name one.

Q. Your statement then is that the business community use it, even where it is cut out by law? A. Yes, I think they want it themselves. I think they want to feel that if they are paying a certain rate on a certain proportion of insurance value, they want to know that their neighbor is not scimping his insurance and thereby paying less than his fair share into the fund.

Q. What is the co-insurance agreement? An 80 per cent one? Or does the percentage differ? A. We use both the 80 per cent

and the 100 per cent clause, granting an additional discount off the rate if the agreement to carry full insurance is used.

Q. Do you have any other graded rates with reference to this co-insurance? A. Without any co-insurance the policy gets a 50 per cent higher rate. A man can go without the co-insurance clause in St. Louis if he wants to, but then he has to pay a rate and a half.

Q. With the co-insurance clause that is taken off, and if he takes 100 per cent instead of 80 per cent he gets it still lower? A. 90 per cent of the rate.

Q. You spoke some time ago about the conditions in St. Louis, when we were talking about expenses and commissions, etc., indicating that the rates in St. Louis had come down very materially in the last few years? Can you state why that was? Do you know why it was? A. The Insurance Commissioner of Missouri in his last report gave St. Louis a beautiful testimonial on the reconstruction of the physical hazard down there. The local agents in St. Louis began 25 years ago to encourage the introduction of improved construction and automatic sprinklers, and established a fire prevention department of the old board which went around and cleaned up rubbish and removed the hazards of fire, and the result of it is best shown in the fact that the average loss per year in dollars to-day is less than it was when I came into the business 29 years ago. The average premium is about one-third higher. St. Louis has been a very profitable point for the last 10 years, but before that time it was uniformly a loss point. You can see that the rates must be very much lower than they used to be, because the premiums have only risen one-third on say $2,000,000 to $3,000,000 in 30 years, while the values must have increased 20 fold there. But it is true that in St. Louis to-day the losses run only about a million a year, and there used to be $1,300,000 when I came into the business in 1881. That has been done by the true correction of the physical hazard.

Q. What has induced that? Building laws? A. Well, originally inducements in the insurance rates. We adopted there 20 years ago, what was called our slow combustion schedule, where we allowed 30 per cent off a rate if a man built his building in fire resisting form, and after that had been in actual practical

use for 8 or 10 years, there was a revision of our Building Code, and they incorporated it into the Building Code, so that to-day St. Louis stands unique in the fact that if a new house is built that extends 7,500 square feet of floor area, it must be built standard slow combustion, which means the 3 inch mill flooring with the stairways and elevators in brick shafts, cut off by fire doors, or else with standard fireproof, which is the same for staircases, but with floors of incombustible materials, and in both cases the building must be sprinkled, which does not exist anywhere else. The law compels the introduction of automatic sprinklers on every risk over 7,500 square feet of floor area.

Q. Is that a statute or a city ordinance? A. A city ordinance.

Q. Did you find much opposition to that ordinance when it was up before the council? A. It was passed in the municipal assembly, before I was a member of that party, but I was on the committee that had it in charge and there was no opposition on the part of the business public, because previous to the question arising in the recodification of the Building Law, it had become a matter of practice, in actual practice long before, under the inducement of the insurance schedule, so it just went over from practice into law.

Q. Do you know the situation existing in your neighboring State, Kansas, as to the anti-compact law, or really is it anti-compact there? A. They have gone clear over, having passed through the anti-compact. They have gone clear over to the absolutely State made rate, and that is now being tested in the courts. Its constitutionality is being tested. It is generally believed out west that it will be held unconstitutional, as foreshadowed in a recent decision in Nebraska. It is a beautiful condition, apparently, for local agents, because there is no cutting of rates and no more rebating, but it looks like a disastrous thing for the insurance companies. It looks as though the rate, under those circumstances, will inevitably be depressed below the price that will maintain the indemnity.

By Chairman MERRITT:

Q. They will naturally take their business out of the State? A. Yes. They are all free to leave.

By Mr. Hurrell:

Q. How long did Kansas have the anti-compact law on its books, do you know? A. I cannot tell you, sir. It must be about the time that Missouri put it in, 1895 or 1896.

Q. And did the same method of getting around the law prevail there that does in Missouri? A. Yes.

Q. By the independent rater? A. Yes, sir, and that was found so full of discrimination that the State revolted from it and went over to its ironclad paternalistic scheme to get rid of the discrimination.

Q. That is one man with the same class of property could get his rate at a different lower amount than another man with the same class of property, was what led the State to adopt a board which would try to keep every man's rate equal; or apply the same schedule? A. In the Hadley investigation that ground was all gone over pretty carefully, and I think the opinion of most of the commission was that there was no more justice in a man having less than his fair share of the insurance tax, because he could get hold of a weak backed agent, than that he should pay less than his share of the property tax, if he could get hold of a dishonest assessor. That is where opinion seemed to settle at the end of the investigation, and my own theory has always been that the best way to cure the rate evil in any State would be not to attempt to direct it by the State, but simply to pass a general anti-discrimination statute, that would bring any case of discrimination under review in a regular trial.

Q. That is, to what end? To cancel the license of the agent who made the discriminatory rate, or cancel the license of the company? A. When you say that you say, "What shall be the punishment?" That can be made in many ways, even cancellation of license. That should be a matter of wise choice, but the principle that underlies all this trouble about the rates, in my judgment, is the discrimination feature, and I believe that could be handled by a general statute forbidding it.

Q. Well, if the State went that far with it, looking after the rates of its individuals, it would have to find out what the experience was on various classes, wouldn't it, in order to even

decide the question of discrimination? A. No, I do not think so. I think that the ——

Q. (Interrupting.) Do you think that it could be all handled by the schedule? A. I think if there was to be a ruling upon a case of discrimination, you would have to ascertain the facts — you know there would be a trial about it and the whole thing ventilated, and after that discrimination would be pretty well checked. Suppose the merchants in one city found out the rates were being made lower in another city, and brought it up under that statute, it seems to me that would put publicity into the question and cure any inequalities that were standing.

Q. Are you in position, Mr. Markham, to tell just exactly what the Kansas law is, or substantially what it is? A. Well, that law requires that the companies operating in that State file their general schedules, the rules for rating and then the old time rate machinery estimates, or rates the individual risks under those schedules.

Q. That is run by the companies, is it? A. Yes; that is run by the old machinery, practically, and when that rate is made, then the company cannot depart from it nor can a rebate be paid.

Q. That is the rate that the rating machinery has made from the schedules? A. Yes.

Q. Well, then, when they get to the point where the citizen thinks that difference in the rate is too high, what happens then? A. The Kansas arrangement is that he can go to the insurance superintendent. The insurance superintendent has the right to order it lowered. That is why I called it a State made rate.

Q. The superintendent issues simply a show cause order and brings the companies in to show cause why the rate should not be reduced? A. I do not think he even needs to do that. I think he just directs it to be lowered.

Q. He did direct it in one case; to lower the rates 10 per cent, was it not? A. Yes.

Q. And that is the way in which the reduction arose? A. Yes.

By Senator WAGNER:

Q. Can he lower it without giving the company a chance to be heard? A. Under the Kansas law I think he has absolute authority. That is thought to be unconstitutional.

By Mr. Hurrell:

Q. Would not the operation of that aim to prevent discrimination by having uniformity in the rates throughout the State? A. It might to handle the discrimination difficulty, all right enough, but it would be very unfortunate in many other regards. Filing the basic schedules would make the whole rate proposition rigid and fixed; not free to follow the changing of the loss ratio or the changing of the physical conditions under which business is done, but which, as a business proposition, ought to be just as little confined as possible.

Q. What about the companies; do all the companies there have the same rates, or do they file different schedules? A. I can't tell you about that. My impression is that most of the companies file the same schedule.

Q. Of course, if there was uniformity of the Superintendent of Insurance in directing that office, the net rate, they should bear in mind, that there necessarily had to be a profit to the companies; if they kept the rate at a firm basis, why isn't it a better condition for the companies than open competition? A. Well, under the state of freedom in which they have been before that time, the companies have barely got rates that would support the business, as indicated by the fact that there has been no new units arise since 1881; no new successful companies arise. That, to my mind is the best proof that there has been no margin in the business. There has been many efforts, and they have all failed. Now, when you take a situation that is as unsatisfactory as that, and seek pressure to drive it lower, what result can you expect except an insufficient income.

Q. You are familiar, through your association with the law in Texas? A. Only in a general way.

Q. They have the same? A. They tried a law similar to the Kansas law, and it was a failure, and they had to repeal it, and now they have a new one they are trying; and the particulars of the new law I am not familiar with.

Q. They went through this anti-compact law before they got a State made law? A. Yes. And they went clear through as Kansas did, from a state of discriminating, to a state of rigid control.

Q. Do you know whether the same conditions prevail throughout the Middle West; do you know other States where this has been going on, this anti-compact condition, and the results there? A. There are many anti-compact States.

Q. I mean, that you have personal knowledge of how things worked out? A. No, my information is hearsay on those States; my impression is that the Texas situation and the Kansas situation were the worst.

Mr. HURRELL: I want to take up, Mr. Chairman, the question of the classification of agents, and what this National Association is working for. Shall I go into it before recess?

Chairman MERRITT: No, the Committee will take a recess until two o'clock.

AFTER RECESS.

Chairman MERRITT: The Committee will be in order.

GEORGE D. MARKHAM, resumes the stand for further examination.

The WITNESS: Mr. Chairman, would you not like me to leave these figures that I quoted from this morning?

Chairman MERRITT: Put them in the record.

(Paper received from witness and marked Exhibit I-1.)

Examination by Mr. HURRELL:

Q. Mr. Markham, has your association formulated any recommendations in general that are to be presented to any Legislature concerning statutes setting forth qualifications of agents, as fixing a standard up to which any insurance agent must measure? A. The last convention declared in favor of such laws, and turned over the drafting of the laws to the committee of which Mr. Drake, of Chicago, is chairman. He is present and can give you all the information.

Q. I thought you were chairman of the Judiciary Committee? A. Legislative Committee; when a bill is drafted it will come

to our committee, and will be approved by the members of our committee, before, under our by-laws, it can be advocated by any State association.

Q. Did the resolution contain the substance, of what the bills were to contain when drafted? A. I think not, sir. That resolution exactly can be obtained from the secretary when you have him on the stand.

Q. I leave that point there, and ask you as an experienced agent, what is your personal opinion concerning the matter of laying down tests in a statute for the government of agents and the licensing of agents? A. I think it would be a beneficial thing if not made too technical.

Q. Not made too technical? A. Yes.

Q. What, in your mind, do you think should be the qualifications of the agent? A. Principally, that he should be a solvent and trustworthy man, of good standing in the community, certified to by a sufficient number of his fellow citizens. That is the principal thing, that the public's money, and the company's money may be safe in his hands, and that he may be expected to give intelligent and faithful attention to his duties.

Q. The reason I am asking you this is because anything that is done along this line will at least give us what is the character of the men? A. Yes.

Q. Now, is this business so unlike other lines of trading that the companies cannot be depended on to get as representatives reputable men in the various communities of the country, and that they should have the suggestion of Legislatures define the men in a statute. That is what is the reason back of it; why is your association going forward with such a recommendation as that? A. Simply that the pressure of competition between the companies has resulted in the appointment of a constantly descending grade of persons, until it is where unworthy men are appointed, and they are a great nuisance to the other men in business in their locality.

Q. That whole thing might be expected to adjust itself, might it not, if you followed the other suggestion you made this morning, namely, that the companies be limited to one agent in the field? A. I think that would correct it.

Q. Do you believe in the State licensing fire insurance agents and brokers? A. I do.

Q. Why do you believe in that particular principle? A. Well, the money that is paid out in the transaction of insurance comes down in the last result on the policy holders. It is to the interest of the policy holder to have as little economic waste as possible in the business. If the people who share in the insurance premium are all disclosed, it will clear the situation, because it tends to limit the spread of commissions, and reduce the cost, the rate of premium.

Q. You are acquainted, are you not, with the recommendations I think that were adopted by the last National Convention of Fire Insurance Commissioners, as to contingent commissions? A. Yes, sir.

Q. We understand by contingent commissions, do we not, that it is a scheme by which an agent is paid a certain flat commission; and at the end of the year, the business coming out of that agency is figured up as to the premium income, and the losses occurring on that agency's business during the year? A. Yes, sir.

Q. What do you think of that plan of giving the agent a direct interest in the amount of business he is writing, and so get him connected up with the company in interest? A. I think theoretically, if generally adopted, it might be a good thing; just as it is a good thing in salesmen of merchandise, to give them a share of the profits.

Q. That is, would you say you favored that method, or do you think it is too theoretical? I noticed you used that word? A. I think it is not practical; unattainable.

Q. Why? A. Well, I would be very sorry to see it imposed by law on the business. I think it is a mistake in the public interest to lock that commission proposition up to an even figure; I think it is better to leave it open and let it settle itself. I don't see how you could handle it by law to make it even.

Q. Leaving it open, to let it settle itself, seems to have resulted in a recent case, in a recent action, whereby the commission was increased five per cent, did it not? A. I am not familiar with that; I have read in the papers something was contemplated.

Q. It has been so testified, that the commission, by the recent

act of the Eastern Union, was put up from fifteen to twenty per cent. Apparently leaving it to the companies themselves, leads to an increase rather than a decrease? A. That process isn't over.

Q. You mean the process of increasing? A. No, the final outcome of that is not over. In other words, if rates came to a close margin, commissions might all be readjusted again.

Q. Do you believe, from your acquaintance and experience with companies, that the claim that is made, and has been made here by some companies' managers is true, namely, that the companies are all working honestly to reduce the fire waste? A. Yes, sir.

Q. Of their own motion? A. Yes, sir; in varying degrees that is true. I will explain the necessity that compels them to do that.

Q. Yes. A. Losses follow trading in insurance. Insurance is not like manufacturing or trading where cost precedes the trading; it follows the trading. If you cannot get a loss ratio descending, you have no profit left out of the business. If the loss ratio is ascending you don't know it is ascending until you have made your loss. If you can have it descending you don't know it is descending until you have made your profit. In order to make money continuously out of the insurance business it is necessary to keep that line of loss going down faster than the rate line is going down, or there is no profit left in the purse. The operation of schedule rating, and the whole pressure of the business is towards reducing, reducing and making less the hazard, because that shows reducing fires, and means the making of a profit. Now, some companies are less stirred by this situation than others, but most of the older companies, the ones that have made the most money, are very active in that regard.

Q. Well, if this loss ratio continued about level, of course, with the companies, they would not be interested particularly, not having the loss reduced, and having the rate follow the loss, would they? A. Yes, sir; but the rate will never rise until a loss has been demonstrated, and a reduction of rate will never follow until a profit has been demonstrated. If it is a loss, you have made that loss, and you can never get the rate up fast enough. It is impossible to get the rate up fast enough, to catch it and cover it; whereas, if it is going down, it goes down after the profit is in hand.

Q. Would you say it is a fair statement that the reason the

stock companies have taken up this idea of reducing fire waste is because of the lead which other companies, not stock companies, have taken in doing that very thing? A. No, I do not think that would be a fair statement. I think all credit is due certain mutual companies, and other experimental companies, for showing lots of progress in certain directions; but the process was inevitable, and was developing always. When schedule rating began, that process began, in the old days. Before that time the theory of insurance used to be it was an interference with a man's liberty to ask him to change his risk. He had his risk the way he pleased, and it was up to the company to take it that way and make a price on it. But the minute schedule rating began, and a specification of the reasons for the rate had to be given, right away the process of correction began. That is the main economic value of joint rating.

Q. It has been suggested, Mr. Markham, since you testified this morning that your remarks on the anti-compact law furnished an argument for companies desiring a state of anti-compact, rather than otherwise. I do not know whether you believe that or not, but I would like to hear you address yourself to that subject for a moment; to sum up your testimony on that point, it was, that under it the rate in Missouri had increased? A. That they made more money under anti-compact conditions.

Q. That the rate was higher there and the burning ratio was less, and the premiums received larger than it was under conditions where the agents were making the rate? A. Yes, sir.

Q. Now, if that is true, why do the companies object to a state of anti-compact, if they make more money? A. Well, the only way I know to answer that question is to say that the majority of men in any profession want to see it done right. They don't like crude, wrong ways of doing things, even if it is temporarily profitable to them. A further reason is that this situation in Missouri will break down in time, if the rate estimates are so high above the loss requirements, it will break down by non-observance. The whole system of united rating is imperiled by that rating up so high above the loss demands, and the system of united rating is the very sheet anchor of hope for the insurance business. If you could turn back the course of development and set the insurance

business back to where it was in 1875, with the present situation, with every great company represented at every point, why there would be a short and sharp struggle with the extinction of so many companies that the public confidence would be shaken. I don't mind saying there are some strong men in our business that would welcome that situation, judging from their talk.

Q. A situation of open competition? A. Anything that would extinguish a lot of the companies; but they are in a small minority, and are without influence in the business. That selfish attitude has few followers.

By Chairman MERRITT:

Q. Are there any companies that make no compacts at all, enter into no agreements? A. Oh, yes, many. There are no agreements in the State of Missouri to-day.

Q. I meant, generally speaking? A. Oh, yes, many companies.

Q. Somebody told me that the Continental never went into any compacts anywhere; I don't know anything about it? A. I wouldn't credit that statement, because, as a rule, the Continental gets the tariff everywhere, but there are many companies and always have been and always will be many companies that are attempting to get the benefit of rate cutting, and yet get a profit out of the business.

By Mr. HURRELL:

Q. Do you think that a state of competition would lead to the destruction of the smaller companies? A. Surely.

Q. By the larger companies underbidding them on the rate, or paying higher commissions? A. Why, the large companies might do neither, and yet, as the small companies struck the limit of their life simply allow them to fall into the basket. If a small company has got an insufficient premium income, as many have to-day, the management will often hang on to the very end, hoping for a fortunate turn in the loss account, but the time comes where they can't any longer do it, and they have either to break disgracefully, or hire some big company to carry all the business through, and retire.

Q. You know generally of the methods of the New York Fire Insurance Exchange, do you not? A. Only generally, sir.

Q. Well, it has been testified to here that substantially all of the companies in this deal, the Metropolitan district, are members of the Exchange; they are members of the Exchange, and all of the brokers, or a large part of the brokers, have signed two pledges, whereby they agree not to take business to any non-union board company, non-exchange company. The result is that no person can get insurance here unless he goes abroad, or takes the insurance given, or makes his contract somewhere else? A. You mean they can't insure?

Q. Except in these Exchange companies. Now, do you believe that the conditions in New York are better under such a combination than they would be if the Exchange were abolished? A. By all means better.

Q. Don't you believe that the companies could still maintain this system of schedule rating without that clause of the agreement which penalizes each other if they do not stick to it? A. Only in a partial degree. That would hurt the dicipline of the rate on a bad risk, where the public interest comes in. It is to the interest of any community, as demonstrated by the history of the St. Louis board for 27 years, to have an even system with authoritative control of the physical conditions, in order to induce improvements in the physical conditions of the risk.

Q. Now, you recognize the general public policy of the country which is against permitting combinations for the purpose of maintaining prices; you know of that feeling? A. Yes, sir.

Q. Not asking whether you agree with that feeling or not, I ask you what is the answer to the proposition, that here is a group of business men that want to be permitted to do what no other group of business men can do, and keep outside of the conspiracy laws? A. Your question takes me back five years, to the time I was arguing that very point before the Missouri Legislature.

Q. I thought it probably would; I would like to have you argue it here? A. I spent many weary hours trying to explain to legislators, assemblymen from the small towns, why it was necessary in insurance to have a common rate, and after many failures to demonstrate that by logic, I hit upon this story, which I found

opened the comprehension of the man who was not educated in a business way better than any other expedient. I told him I had a friend in St. Louis who was in business, but for fun he raised bull dogs in his back yard, and that I always noticed when the dogs were puppies, if a fight started, he would go to his dining room window and look out and laugh and let them fight. Fighting did not hurt them; it only made them better pups. But when the dogs were grown up, if a fight started in the back yard, he went out and stopped the fight, or he lost his dogs. Now, you see the appeal of that story?

Mr. HURRELL: I think I see the point.

Senator WAGNER: He is not a hayseed legislator.

The WITNESS: Now, in the old days, when the business was done by the local facilities, when only a few of the companies had began to go out in the agency field, the business subsisted without agreement, and without a common rate. In fact, the average price was so high that during those years the companies accumulated the surplus in unearned premium which has enabled them to tide over the lean years in which no other new company has been able to get started. But when with the improvement of transportation and intercommunication throughout the country, all these units came into competition at every point, the thing came to a point where you could not subsist with that competition, and after a serious experience, in the case of the Chicago fire, and the first Boston fire, the community as a whole, the country over, the mercantile and manufacturing owners came to the conclusion that better than a low price was a solvent company, and they welcomed the intelligent collection of a sufficient income to keep the companies good.

Q. Do you believe that the companies should so keep their loss record that they could answer whether the rate was excessive or not excessive, in other words, do you believe that these rating bodies, if they want to exist, should combine the experience of their members and be able to show what the losses in various classes have been over a period of years? A. I think that will likely come in time. But the most expert, the most careful men in the business, in the management of the companies, men who can in experience let the most light on the problem, differ as to the

form of classification table, and how to operate it, and what are the value of the results. It is still an incomplete science.

Q. If a classification were attempted, whether it was as good as could be devised, but if it were uniform in all companies, and all companies used that classification, wouldn't that assist any person to answer the question, if the premiums in this class had been sufficient to pay the losses in this class? A. Manifestly.

Q. And don't you believe, or do you believe, that if the companies in these rate making institutions had kept their statistics in that way that they would be in better shape to answer the public, when the public asks if they are not conducting a trust to the public's detriment? A. (No answer.)

Q. Wouldn't it help? A. I don't know whether it would or not. Now, San Francisco, for instance, paid excess premiums for 30 years, and it had one disaster, and burned up all the excess profit, and all it will ever make, so far as we can see. It is a very difficult thing to say what a fair level of rate should be. The men who know most about it, are most modest, that is all I can say, among the managers. When I was younger, I had some cocksure views, but I have grown to be very hesitating about it now.

Q. Is it your experience that the rating organization —that there was any real competition on the inside between members to cut rates down because they knew that their insured carried insurance in this, that, or the other class, was there any real competition on the inside? A. Yes, sir, and it is inevitable from the fact that the companies are independently owned and do not pool either the amount of business done or the profits. Of course it is intense between the agents and the different checks carried through rating organizations like the New York Exchange, only operate to make the curve line longer, they do not check the process. I mean they do not control it, they check it, that is all. There is a constant influence shaking down the price to the lowest level consistent with the views of the majority.

By Chairman MERRITT:

Q. What is one of the principal problems of the attempt to make rates by the State — the lack of information on the part of

the people that have the power? A. Of course that has not been tested sufficiently anywhere to really give an answer to that question. In Kansas it was in the hands of one man, and he apparently just ordered something done, for a cause which is variously reported, but of course unknown really. In Texas they had a commission which made many errors in the way they administered the law — perfectly honest men, just as intelligent as any you find, but these questions are complex and difficult, and the mistakes that they made rolled up a feeling of hatred against them that tore the whole thing down at the next session. Personally I feel that any State interference with rating means inevitably a depression below subsistence. As I said this morning, I do not see how it could be otherwise. Trying to put myself in the position of the men appointed by the State, if I was trying hard to get at what was honest, and was not tempted to play it for political purposes, even then, the pressure on me would be so strong I think the net result would be a price below par.

By Mr. Hurrell:

Q. I take it from what you have been saying that you think the state of anti-compact goes a long way to reduce the benefits to be derived from schedule rating? A. Oh, unquestionably. You can understand it, the minute the discipline of a general rate, an uniformly and evenly enforced schedule rate, is relaxed, why then the careless man, the man who would rather save $50 than make his boiler room safe, even though he was going to get $15 a year economy for it — then he can do as he pleases, and so far as that risk is concerned we are back to the old system of seventy-five where he says I will keep my risk as I please and find a man to insure it. That man may be right in the middle of a very important section of a business community, and yet there is no influence to discipline him into making that thing safe except the power of the united rating, and in St. Louis that power has operated to a complete revolution in the hazard, and the same process has worked to a more or less degree towards the same result everywhere according as the power of discipline ex-

isted. When you break it you destroy the most valuable economic factor of the insurance situation.

Q. What is the least offensive measure, speaking from the view of an insurance company, or an insurance point of view, what is the least offensive measure of supervision in your judgment that a State could fasten upon the rating bureau, where this combination goes on — if the combination were to be retained — what do you think the State can do to satisfy the citizens that this bureau is being conducted in the public interest? A. I don't think myself the State can do anything better than to let it alone. That is my own opinion. If the State is determined as a sop to public clamor, to do something, of course the least they could do is to appoint a committee to visit, in the old English sense, to visit the things, without any power except that of publicity. But even that would quickly be abused, unless the men on the committee were of the highest grade. You cannot get men like that practically, you cannot get men fit to serve on committees of that kind; they are tempted to favor their friends, they are attempted to favor their party, and economically, for the good of the policy holder, the thing to do is to let the process alone, because it is guarded by this essential competition between the units. I am sure, if you think about it, you will see that — that as long as the companies are separate in ownership, not pooling the amount of business done, not pooling the profits arising therefrom, that the principle of competition is in full effect, furthermore, conservative companies where commissions are open, the minute rates rise, and some increase in commissions is shown in that class paid by competitors who want to get more of the tempting class, are all for lowering the rate in that class, so as to check the rising commission, and keep themselves from losing that business. The process cures itself all the time. Then, what is more, as your chairman said, there are always a great number of companies forming — the organization of insurance companies is as free as air — the minute there is the slightest chance of profit they rise up like mushrooms, and often wilt the same way.

Q. If this is true about the commissions, the rate being reduced when the commissions go up, why is it that substantially all of the companies pay such high commissions for the preferred

business, and that the rates are higher than they ought to be by admission of companies? A. I think that the only reason that the high commission on preferred business exists is the fact that it is a retail business. If anybody in this room went out to get a five dollar premium two miles off, through the snow, he would not want to get only ten per cent commission. I think that is a petty transaction, like every retail transaction and bears a higher profit to salesmen, and should and must.

Q. You think that the extra expense of the business answers for the vast difference in the rate entirely? A. No; I think personally that the preferred business is a little over-rated throughout the country, but there is a great deal more clamor about that, than fact. I run sub-agency departments in our office that are confined to that class of business, which has by no means a steady profit, because whenever you go out into that business there creeps in a certain moral hazard on those small risks that will often burn up a company's profit. Of course as a whole that small business bears the heaviest profit loading. That might be shaved and sometime will be probably in the course of time, but the main expense loading on that class of business is legitimate because it is retail business.

Q. Would you say that if the State should attempt to regulate commissions and make a rate of commissions to be paid agents, that that would react upon the small companies in any way? A. I think it would end them; it would hasten the process of their extinction. Why should a customer — why should an agent represent a small company at the same commission when he can get a big one? Why should a customer take a small company if at the same rate he can get a big one? You tie it all up and you end the chance of the small man coming into the business. In these rating associations it is all voluntary, and you find these small companies begin, as non-tariff companies — that is the way they generally do, and then when they get some public credit, they become tariff companies. The minute you go into a State made rate, you leave no flexibility in the situation.

Q. Do you believe that there is any good then in the organization of small companies? A. At this time I think there is no opportunity for them, but many men think otherwise and continue to form the small companies.

Q. But you think there is no opportunity for them to succeed? A. To succeed; I don't think they can succeed. That is my opinion; another man comes in who thinks otherwise, and he forms a company.

Q. Do you think the small companies would have a better chance to succeed if the rating boards were admitted by law in general over the country? A. By all means, because then the ordinary process would be that all the established companies would belong to the rating associations, and the small people could work around outside. That was the condition in St. Louis in the old days; there was always a non-board element.

By Senator WAGNER:

Q. Do you know how the rates in the State of Missouri compare with the rates in the State of New York? A. They are higher, and legitimately higher. They would be higher under an accurate rating system, because the habit of construction in the east is safer, you have an older community, more protected towns.

By Mr. HURRELL:

Q. The situation would be vastly worse, would it not, if several of these small companies that are now in the field and in the rating organization, and in competition, where no rating organizations exist — the insurance situation would be worse off if those companies were out of business? A. By all means. It brings it down to the control of a small number of people; and all this interference with the business is repeating again what we have seen so many times, that legal interference with business tends to consolidation. That is what it would do, unquestionably.

Q. Do you think that if conditions arose where the companies could all consolidate, and then be governed by governmental regulation —— A. (Interposing.) I should not think that would be probable, because there are such different views among underwriters would be represented in a few, but I look to see the business confined to a few great groups, before the process is over.

Q. Do you know anything about the situation in the anti-compact matter, in Indiana, Ohio, Michigan, or any of those Western

States? A. No; you have an Ohio gentleman here. I do not think it is as bad in any State now in the west as it is in Missouri.

By Senator Wagner:

Q. There does not seem to be any public sentiment there, however, for the repeal of the anti-compact law? A. Oh, yes; I quoted this morning what Mr. Kennish, the insurance superintendent, said, and in the last session of the Legislature, our local agents association passed with only one dissenting vote in the Senate, and seven dissenting votes in the House, a bill to bring about a reforming of the old local boards, and Governor Hadley vetoed it.

By Mr. Hurrell:

Q. Is the London Lloyds' in your market, is very much underground business placed abroad? A. No, sir.

By Chairman Merritt:

Q. Is there any privilege or right not now given by law to such corporations, that you can think of, which might be sufficiently valuable to them so that they could, if given such right, submit to some form of regulation — I, of course, don't know anything about it — the general public in this State, as in other States, has an idea that everything should be regulated. A. That is the cry.

Q. And whether that is a sound proposition or not, it is being more and more recognized, and it is an anomalous situation that this particular business should rely upon combinations so much in conducting their affairs — as the State, not only in their interest, but the public interest — and they should claim the necessity of that, and then not also concede the popular view that there should be some regulation. That is where we find ourselves at issue. I recognize the fact that no man can get insurance as a right. You do not regard fire insurance as a public service function, do you? A. Not at all; that is the distinction between it and a railroad, or anything that man has to use if he wants that service. There are all manner of fire insurance schemes open to him, tariff, non-tariff, mutual, stock.

Q. I don't think that this Committee would be any more willing to find as a matter of fact from the evidence, if it should point in that direction, that the compact ought to exist than that it should not exist. What we want to get at is the real heart of the situation as far as laymen can? A. I think I can give you some light on that subject by this statement, that in the beginning in Missouri, the clamor carried the day. When it was tested out it was found by the business interests, the people who paid the premiums, the main body of insurers, that anti-compact legislation was a mistake, and when that bill was passed, last session, in the Legislature it was passed not by lobbying at the Capitol, but by our State organization of local agents, with a chairman in every county going to the counting rooms of the premium payers and convincing them that the situation was wrong, so that the representatives of the counting rooms in the Legislature got unmistakable evidence from the people at home that they wanted this thing changed. In New York, I am confident that if the test is made squarely and not on the clamor, that the State Association of agents in New York could discover exactly the same state of things among the business men in New York, that the thing to do in this insurance matter is to let it alone, so far as State interference goes.

Q. There seems to be a lot of confusion in everybody's mind, there is in mine, and everybody else's, I suppose, in regard to the nature of this fire insurance premium, anyhow. You spoke of it as a tax, I think, early — A. (Interposing.) That is all it should be.

Q. But it has no inherent quality that is peculiar to taxation, has it? A. Yes, sir; it is each man's contribution to the insurance fund that protects the man who has the loss, and the city that has the conflagration.

Q. It is a contribution, but when you call it a tax, you are using a word which has a very specific meaning? A. Well, of course, it is not a tax in name, but it is a tax in quality and essence. It should be evenly distributed according to each man's proper payment to the common fund, and the question of how that can be done is in a state of evolution, already come a long way from the old crude days, and yet a long way from its finish.

Q. Isn't it true that some people have been advocating making it a regular tax, according to the tax law in furnishing State insurance? A. There have been experiments of that kind tried. The philosophical reason against it, it seems to me, is that it would take out of the business the constant struggle of the different managers to find the line of profit. Where you check all of the curative influences on the risk — if the State was simply levying a tax, the whole business would stall.

Q. It would be a strife to see who would get it? A. It would be just — take my own little company here; I have started this company to do a certain line of business. If I continue a success for ten or fifteen years, my success will demonstrate that that line of business has a profit in it, and the inevitable result will be the lowering of the rate in that line of business, just as sure as the sun rises. I hope in the meantime to get our profit out of it before the rate falls.

Q. Before they take it away from you? A. Before they take it away from me; but the demonstration, you see, that demonstration proves a question that was doubted by some of the smartest underwriters in New York, who laughed when we started our concern. They said "That is the class of business we make all our losses on. He won't last any time."

Q. What would you consider an ideal condition in the State as to the relations of the State, in this particular business, anyhow, taking the whole thing, taking into consideration the stock company, such a company as you, as an underwriter, you have explained here, the mutuals and all that, what would be an ideal situation from the standpoint of the State and the standpoint of the company? A. That is rather a wide question. That means drawing the Committee's report.

Q. That is right. That is exactly what I asked you the question for. A. Well, I am complimented ——

Q. (Interrupting.) I want to say to you, as I have said to other witnesses, that in my judgment that men like yourself have forgotten more about this proposition than the Committee will know, probably, when it gets through, excepting, of course, its counsel and actuary, who know all about it. What would be a sufficient investigation all the time of the solvency of the com-

panies so that the assured were protected? You would start in with something of that kind? A. Make a minimum requirement of solvency that is large enough for practical purposes to keep the public safe, and not exclude new companies. That is the first point which you have already provided for companies actually operating in New York State to-day. That is the requirement as to solvency. Within the limits of that requirement admit all companies, whether they be formed in this State or in outside States, so long as those requirements are met. Have your insurance commissioner follow with zeal the course of the business (the department itself has got plenty of authority to throw all the publicity on any line of business that is necessary); and then, beyond that, by all means, follow the safe English system demonstrated to be best; that of the least interference with the insurance business.

Q. Have enough publicity to drive the mystery out of it? A. The department can do that. The counsel of the department will bear me out that the department has ample powers to go into almost anything they care to take up. The limits of their activity has been bounded by the funds that they could use and other political questions, but if they get an increase of zeal and liberty to act, and instructions from the Legislature to be watchful and active about those things, they could give all the publicity that was necessary. Otherwise keep the hands of the State off from it. I state that with absolute conviction after many years of watching the thing and some sad experience in Missouri.

Q. That would be an almost ideal condition for any activity in response to the demands to regulate; just as little interference as possible. There is no question about that. It is the practical thing. A. Yes, sir.

Q. And there are so many people think that the essence of good governments consists in wise interference. It is hard to meet both sides. A. That goes back to the fundamental difficulty in our government. Many people would say, as an academic question, that a wise despot would be the best thing, but you cannot be guaranteed on the wisdom.

Q. You might have awful bad luck though. A. And in State interference if you could get your State committees made up of men of the type of some of the really great men that are at the

head of some of the companies here in New York, why the business would all go better, but you cannot get men of that type; that is, we can't in Missouri for any public office, because they are too well occupied elsewhere.

Mr. Hurrell: I have no more questions, Mr. Markham.

Dr. James L. Perry, called as a witness, being duly sworn, testified as follows:

By Mr. Hurrell:

Q. Dr. Perry, you have written the Committee that you have a statement you wish to make; a specific complaint about a rate on property in this city? A. Yes, sir.

Q. Will you please state it? A. Yes, sir. The letter I wrote — there is one mistake in it.

Q. Never mind the letter; just state what the complaint is. A. My insurance three years ago on a place up in Harlem, 125th street ——

Q. What is the number? A. 72 West 125th street.

Q. 72? A. 72 West 125th street, was for $10,000. Now, in my letter I stated, whatever it was, it was a mistake. I have no papers to refer to to-day, but as I recall it the insurance was raised from about $60 on 10,000 up to $114, and then I got it scaled down to $65 or $66 — about $40 taken off of it.

Q. Did that represent $65 a thousand? A. For $10,000.

Q. For $10,000? A. $10,000; $65 and a fraction. Well, then, I can give it to you exactly. I have got the papers if you want them, and then the next three years — the last three years, ran my insurance up to $199.98.

Q. On the same property? A. On the same property, and $10,000 insurance. I could not get anything off from it, nor I could not even talk to the agent.

Q. Have you your policy here? A. Yes, I have some of them. There is another one here I wanted to show you at the same time. That is July, 1904; $5,000 insurance, $30; there is the one, $10,000, $199.98, and that expires now, in January.

Q. This is a policy issued to James L. Perry on property 72

West 125th street, $10,000, premium $199.98. Now, you say you are unable to get any explanation from the agent. You mean this agency that sold you the insurance? A. Yes, sir.

Q. Did you ever ask these brokers or agents to get you your schedule from the Exchange? A. No, sir. He had one. I requested one, but I have not got it yet.

Q. How have you requested it, by letter? A. Yes, sir. Now there is the insurance up to 1904, $5,000, two policies for $5,000; $30 and something on the same property.

Q. And you show me two other policies aggregating $10,000, the rate upon which in 1904 was $60.75? A. Yes, sir.

Q. So that your premium has increased the difference between $60.75 and $199.98? A. Yes, sir, and I have another policy which is an insurance policy.

Q. On the same property? A. Yes, sir, on the same property; two of them, and previously it was.

Q. In 1904 the policy shows the rent —— A. (Interrupting) 1904, the amount of the rents insured, seven hundred and twenty-nine. That was rent I got then.

Q. That was nine twenty for twenty-five hundred? A. Nine twenty for twenty-five hundred, net.

Q. Now, the rate in 1910 for twenty-five hundred on the same property is forty one sixty-six? A. Yes, sir.

Q. And you have had no explanation as to that increase from anybody? A. I have written to the agent and he said he could not get anything off; that they were very steep on their prices.

By Chairman MERRITT:

Q. Has there been any change in the occupancy or conditions of the property? A. No; not since 1903.

By Mr. HURRELL:

Q. Let me see. What is it used for, the building? A. I cannot tell you; impossible. It is hired by a lady. She is lessee, and she lets it to suit herself. I do not know anything about it. She has a lease.

By Chairman MERRITT:

Q. Have you had any such experience as that on any other property? A. No, sir. That is all I own.

Q. Do you know whether the rates on surrounding property have been affected? A. I presume they have been just the same.

Q. You do not know anything about it? A. I do not know anything about it, although I think that in that block between Lenox and Fifth avenues there are no large buildings. There is no large business to warrant such a raise. There are large stores between Sixth and Eighth avenues.

Q. Well, what is the building? Is it occupied as a residence? A. No, sir, it is a business building.

Q. What class of property? What class of tenants have you in there? A. Now, you ask me more than I can tell you, because the lady that leases of me rents it to suit herself, and I do not interfere with her business.

CHARLES W. COOL, called as a witness, being duly sworn, testified as follows:

By Mr. HURRELL:

Q. Mr. Cool, where do you live? A. Glens Falls.

Q. Glens Falls, New York? A. Yes, sir.

Q. And what is your business? A. Insurance.

Q. In what line of insurance are you? A. Well, I run a general agency of companies.

Q. How long have you been in that business? A. Nearly thirty-one years.

Q. In Glens Falls? A. Yes, sir.

Q. Do you know, or have you made any figures upon the course of the average rate for your town during the course of years down to the present time? A. No; not the average rate, only so far as it relates to my own business; the average rate of my own business.

Q. That is, you mean by that the business that goes through your office? A. Yes, sir.

Q. Well, what do you find upon that test? A. Well, I have

not made it in every year, but, for instance, in 1900 the average rate of my business was one fifty-two and a fraction, and in 1908 my business average was one ought one.

Q. What would you say was the reason that that average was reduced in your business in your locality? A. Well, different methods employed in making rate; possibly business now being all from schedule rating.

Q. Have you passed through the period of open competition in the years that you have mentioned, where companies were competing with one another on rates and commissions? A. Not since 1885.

Q. Not since 1885? A. No, sir.

Q. Is that the year in which the rate bureau took hold of the thing? A. No, sir. We had a rate — we made our own rates in the County Board at that time.

Q. A County Association? A. Yes, sir.

Q. And did you make them according to schedule then? A. No, sir. We did not. The schedule rate was not used at that time.

Q. And when did you adopt the schedule rate? A. Well, I cannot say.

Q. Well, approximately? A. I could not tell you just the year.

Q. That is, presumably, when the State Association took charge? A. At the time the State Association took charge, I should think; ten years ago or more.

Q. What companies do you represent at Glens Falls, please? A. Do you mean what particular ones?

Q. Yes. Well, we have an agency of twenty-two.

Q. You represent the leading New York companies there, do you? A. We have nine New York companies, so-called, the home office being here.

Q. Do you think that that reduction in premium on the business you do has been the result of schedule rating? A. Yes, sir; by improvement to the risk.

Q. That is what I was getting at. Now, will you state just generally what has been done as a result of schedule rating in your town? A. Well, prior to 1902, our town did not have any paid fire department. Conditions were bad there; physical con-

ditions were bad, and we had at that time — well, it was a conflagration, which resulted in a loss of a little over half a million, and then the authorities took up the matter of paid fire department and betterment of conditions and illumination, poor wiring, electric wiring, and general overhauling of the whole town, so to speak; betterment in the water works.

By Chairman Merritt:

Q. I suppose the reconstruction of that property was done in a better way than the old buildings? A. Very much more, sir.

Q. And that became a positive element afterward, didn't it? A. Yes, sir. At that time the co-insurance clause entered into the proposition quite materially. Betterment of the risk, of course, in cities or towns where they are under fire protection, why, of course, the co-insurance clause cannot be applied. It is not in the outlying towns.

By Mr. Hurrell:

Q. That is because the loss can be saved before it becomes a total loss? A. Yes, for that reason. Of course, it would naturally reduce the rate by application of the co-insurance clause.

Q. What was this conflagration up there you spoke of? What was it burned? More than one industry? A. Oh, yes; took out a whole block.

Q. Well, now, have you got any specific instances as to the reduction of rate upon any particular industries up there as a result of that? A. Yes. I had a shirt factory that two years ago was rated at one forty-six. To-day I am writing it for seventeen cents and a half.

Q. As a result of what? A. As a result of the instalment of a sprinkler system and standpipes and hose; betterment of the building in other ways.

Q. Have you got any wall paper risks up there? A. We have some, yes, sir.

Q. Wall paper factories? Has there been any reduction in that class of property? A. When the Imperial Wall, which is the only one near Glens Falls was built, the rate on that was one

per cent. It was a sprinklered rate, and the rate was reduced to fifty cents; from that to forty; from that to twenty; from that to fifteen, and now it stands.

Q. And how about your commissions on this business where the rate has been going down at that rate, did you get any increase in commissions to make up for the decrease in the volume of the premium? A. Oh. no. No. The commissions remain the same. Your commissions are so much, and it is all based upon the amount — your part of it depends on the amount of business that you may do.

Q. I take it if a law went into effect reducing the commissions to agents, you would object to it? A. Well, I should not feel pleasant.

Q. Now, you know, Mr. Cool, that one of the complaints before this Committee is that there is too much money paid to agents. What do you think of the average rate of commissions paid to the fire insurance agents up-State? A. Well, figuring it from my own experience, which perhaps is a fair one, the average rate of fifteen per cent would hardly be enough.

Q. Is hardly enough now? A. Is hardly enough, for the simple reason that I would make less than eight per cent out of it. But in other years the cost of doing business, rent and everything of that kind, clerk hire, would use up over seven per cent, which is my experience; practically 7¼, which would leave me 7¾ as my portion of the premium.

By Chairman Merritt:

Q. What proportion of the policies that you write pay enough to pay the expense of doing the business? A. I can hardly answer you that, Mr. Merritt.

Q. Well, maybe I am not clear, but I take it that it is just as much work for you to write a policy for a small amount as for a large one. A. In answer to that I would say I never have made much of a drive for dwelling business, which is called preferred business, in the preferred class, for the simple reason that the premiums are so small that for the time you get around and collect your premiums and remit them to the company, you will be owing the company for the privilege of doing the business.

Q. But you have left some other fellow for that kind of business? A. Yes; I am generous.

By Senator COLNE:

Q. How many agents have you got up there? A. Fifteen, sir, and six or seven would-be's.

By Chairman MERRITT:

Q. Ready to jump in? A. Have jumped in.

By Mr. HURRELL:

Q. Are some of your competing agents in that town paid higher rates of commission than you? A. That I could not say, sir.

Q. Well, do the companies — are you governed in your commissions by the Eastern Union? A. Some of my companies are in the Eastern Union. A majority of them are. I have one or two companies, and possibly three or four, that pay me a little excess of commission, but my average commission, all told, last year is less than 16½ per cent, which includes any excess commission companies that might be in the agency.

Q. Has there been any amount of complaint in your vicinity concerning the operations of the up-State rate bureau? A. Not to any great extent.

Q. Do you come in contact with that bureau very much? A. You mean the Syracuse Bureau?

Q. Yes. A. Oh yes, we operate under the Syracuse Bureau.

Q. Do you find, in taking care of your customers, that you can get rates reduced intelligently by making the proper representation to the State Rating Association? A. Yes, for the simple reason that if, under the present rating system, everything being scheduled, you charge a flat rate, and for any deficiencies you add — or in other words, the rate is so much. The rest of it the man makes himself. Do you understand me?

Q. That is, you mean the man can, if he will, correct his property? A. In other words, we will make a basis rate, which, by the way, has been reduced twenty per cent since 1902; has been reduced twenty per cent since 1902 from the former rate which

was already established. In other words, the basis rate is so much. If there are any defects like electric wiring, or conditions of cleanliness — all those things go to make up a rate.

Q. And you make the statement here that the basis rate of the up-State Association has been reduced twenty per cent since 1902? A. As far as our county is concerned; yes, sir.

Q. And the charges to be applied, when you apply the schedule, are left as they were before the reductions being made in the base rate? A. The reduction being made in the base rate, and the elimination of any of those charges. Of course if a man can eliminate anything, of course he gets credit for so much. In other words, he makes his rate from the base rate.

Q. Have you got any competition from mill mutuals in your town? A. Yes, sir.

Q. Has that had quite an effect of lowering the rates in the cases you have spoken of; particularly the shirt factory? A. No, sir. I hardly think it has. The companies recognize the fact that if a man improves his risk he should have the benefit of it in the rate; or, in other words, if he were to build this building and build it according to this schedule, he would get the same rate that he would if he had a building and put it back to that condition.

Q. Have you any objection, or has any of your companies objection, as far as they know, to the admission into this State of mill mutuals? A. Well, that I could not say.

Q. Well, do you believe there ought to be any objection to the admission of the New England mill mutuals? A. Not if they pay a tax.

Q. Yes, if they come in properly and are licensed by the State and pay the usual tax that foreign companies pay? A. I do not know why they should not.

Q. Do you have such large risks in your town that you have to use section 137, under the surplus line affidavit, to get insurance? A. No, sir.

Q. You can cover all yours by admitted companies? A. Yes, sir.

Q. What do you think about this question we were discussing with Mr. Markham about agency qualifications? Do you think

the State of New York ought to lay down any tests as a condition of agents doing a fire insurance business? A. Well, I think they had. I think that you would feel just as I do if you were to see a list of some of the agents that are in the State, so-called agents. They have no experience whatever, a great many of them, and that is, in my opinion, one of the reasons why it costs so much for the companies to get their business. An inexperienced man is an expensive luxury, possibly. Do you understand me?

Q. You heard Mr. Markham's suggestion this morning that the evils would be eliminated largely if the companies were held to one agent in a town. Do you think that would help very much? A. I could not say as to that. As far as our town is concerned there is a company there for every agent and every citizen.

By Chairman MERRITT: You have enough then? A. Plenty.

By Mr HURRELL:

Q. Do you find that, as a matter of fact, out of all this number of companies, that there are a considerable number of them outside of the up-State Rating Association? A. There are not so many in that locality.

Q. You have some, do you? A. Yes; we have a few.

Q. And what is the custom when they approach a risk? Do they follow the association's rate, or do they underbid it? A. Why, they generally underbid it to get it, because the quality of insurance, as a rule, that they offer, is not equal to what the association companies have.

By Chairman MERRITT:

Q. What covers the question of insurance in general? A. Indemnity.

Q. Adjustment of losses and everything? A. Yes, and the taking care of losses. A great many companies, it has been my experience — a great many companies that are not in the board — I do not mean that with every company, but a great many companies handle the adjustment of losses so they work out to the detriment of the person insured.

By Mr. HURRELL:

Q. Well, in what way do you mean? A. Gets trimmed.

Q. You mean they do not adjust losses fairly? A. Yes, sir. I do not mean that every individual loss, but I would say that I would take my chances with a larger company in preference to a smaller company that does business that way.

Q. Do you think there would be any danger of hurting the smaller companies if commissions, as a whole, were limited to a certain fixed amount? A. I presume likely it would drive some of them out.

Q. Do you think it is really smaller companies that are willing to bid up on the commissions? A. Invariably.

Q. You were mayor of Glens Falls at one time, were you not, Mr. Cool? A. I was; its first mayor.

Q. Does the town or city have a very stringent building code? A. They have not as yet. We are preparing one now which will probably be in operation within six or eight months.

Q. From your experience with that municipality, would you say that a State fire marshal law would be a good thing? A. I do not know as to that. I do not think it would affect a little municipality like that. I think that all these smaller cities can take care of themselves; they are just one big family, so to speak.

By Senator WAGNER:

Q. What is the population of Glens Falls? A. About 16,000, sir.

By Mr. HURRELL:

Q. Do you think that there would be a material change in your business in Glens Falls if an Anti-Compact law should be passed in this State? What do you think about it? A. Well, not having had any experience, Mr Hurrell, I could not say.

Q. I was going to ask you: You appreciate the complaint there is against rating bureaus at the present time, and against the companies. You appreciate the public feels that the companies are making a great deal of money and are charging excess rates? A. I do.

Q. Now, what is the answer in your mind? Have you any ideas on the subject as to what ought to be done to satisfy the public? A. Well, as to that I would say that I think the public do not understand the situation. I think the insurance purchasing public do not look into companies enough. They are too dependent upon the agents as a rule, and, moreover, on the other hand, I think the companies on their part in issuing their annual statement, and in their intense desire to show that they have increased their surplus, or increased their assets, do not make any distinction, and as it goes in that they increase their surplus to a certain amount, it looks to the individual insurance purchaser as though all that money had been made out of the insurance business, when, as a matter of fact, if they would just defer the banking end of it, the appreciation of securities, it would make quite a material difference in the surplus, as far as the fire insurance premium is concerned.

Q. In other words, you think if this big company made a million or so in the street and would not advertise it in their surplus, the public would not be so quick to think that they were making it out of their premiums? A. No. Let them advertise it, but let them say what they made it on.

Q. Keep their earnings distinct so the public would understand what companies make out of the underwriting end? A. In other words, if I wanted to find out what they were making, I would have them say which was the banking end of it.

Q. And not confuse the public into making them believe they made it out of underwriting? A. No, as an illustration, one company increased its surplus two or three millions last year, when, as a matter of fact, every insurance man on earth knows he never made it in the business, I mean in the fire business.

Q. That is, they did not make it out of the premiums? A. No, sir.

Q. They made it out of buying and selling securities? A. Yes, sir. This little company, as an illustration, in Glens Falls, increased her surplus every year to a very large amount, and the people, the purchasing public, thinks that she is making all this out of the fire insurance business, when, as a matter of fact, her interest and rent receipts, which are apart from the fire end, are

more than her capital stock every year; and she declared a 115 per cent dividend. Everybody thinks she made that last year out of the fire business.

Q. Whereas you say she made it on the investment of her money in different lines; real estate, stocks and bonds, and one thing and another? A. Yes, sir; appreciation, and all that sort of thing.

Q. I take it that the companies could show this; show up that underwriting profit if they kept a pretty careful — well, I suppose the companies now think they can show what they made every year? A. Yes; I guess they can.

Q. And on the underwriting end? A. Yes.

Chairman Merritt: Don't they have to report that to the Department?

Mr. Hurrell: I think they do.

By Mr. Hurrell:

Q. Well, your criticism is when they advertise, they advertise the whole thing as if they made a lot of money, whereas, in your judgment, they are not making a lot of money in the underwriting end? A. I know they are not.

Q. If the company advertises that it is, it is their own fault, isn't it? A. It would work to their disadvantage; yes, sir.

By Chairman Merritt:

Q. Is the margin of profit, in your opinion, so close generally, as has been expressed here once or twice in evidence — a very doubtful undertaking for any new company to undertake to go into the business? A. I think it is; yes, sir. There is a vast amount of money, when you come to consider the amount of money which is in the business, and the insignificant sum which that realized — which is realized from the fire insurance part of it — there is nothing attractive for any insurance company to go into business; any new company to go into business.

Q. Of course the premium pays it all, and from one point of view the agent's commission is what the insured pays to get in connection with the insurance company. It seems as though the

flat premium of fifteen per cent applied to all the insurance in the State is a pretty big charge for the insured to pay for that privilege. It seems as though there might be some way to reduce that; not arbitrarily, but as though natural causes might reduce it. The volume of insurance is increasing, I suppose, and I suppose the rates are dropping and the commissions going up? A. As rates go down, commissions should go up.

Q. Unless the volume — if you were treating it from the standpoint of — suppose that the companies hired on salaries instead of paying commissions, why, that would mean a fairly fixed rate of compensation; in order to keep that fixed, of course, the commission must go up as the rate goes down, or else the volume of the business must increase so as to make the same total of commission practically the same from year to year. A. True.

Q. How does that work out? A. Well ——

Q. (Interrupting.) I do not desire to ask any impertinent questions about your business. A. I could not tell you just how it works out with other people, but I know I have had to increase my business over thirty-three and one-third per cent to get back that that I have lost in the difference between the rate of ten years ago and now.

Q. With the commission the same? A. With the commission remaining the same. Moreover, the cost of doing business is much greater than it ever was before. The agent, if he is a good agent, will inspect his business more closely, and as he grows on in years, his loss ratio should decrease rather than increase. When a man first starts in the insurance business as an agent, he takes everything in sight. If a man has the premium to pay he takes the risk. By and by when he gets down to have a little interest in the company then he is looking around a little to see what the moral hazard is, and the physical hazard, and the better the risk, why, of course, the lower the premium, and the lower the premium the more money for the company.

Q. I wondered — I live in a town not as large as yours, but conditions are not entirely dissimilar — to what degree the local agents generally sought to point out to their insured where they might decrease the various hazards by improvements of physical conditions, unless it came to them because of a protest on the part

of the insured and unwillingness on his part to take insurance at all. I know of my own experience that every time I have had occasion to find fault, the agent or some agent would say, "Well, if you do so and so there will be a reduction of so much on your insurance," or sometimes some competing agent has been kind enough to offer a better rate; provided, of course, those were things I wanted to do, and I was a little sore because I had not been made wise in the first place. I would have been glad to have done it to begin with, but I never have found any agent, and I have very fine agents in my town, too, but I never found any of them that were stimulating that sort of thing, unless I got to the point where I did not want to pay the premium. A. Well, with me have one person that does nothing but just read the rules of the State Association and attend to that particular business, and that is his business every single day. As far as that is concerned I can take you to an agency here in New York where there are two members, and one man has not been inside the building, not half a dozen times in two years, for the simple reason that all he does is just go over this whole city all the time looking after little defects here and getting them remedied, and getting the rate reduced and bettering the condition as well.

By Mr. Hurrell:

Q. You mean for your company? That is, for you? A. No. I say there is a concern here of brokers, and one of the members has not been inside of the office not over half a dozen times in two years, and all he does is just work outside and telephoning the business in and looking after these defects and betterment of risks and getting the rates off.

Q. You do that in your own way in your town? A. Sure.

Q. Have you a man to do it? A. Sure.

By Chairman Merritt:

Q. Occasional fires are not desired? A. No, sir.

Q. In order to stimulate the business? A. No, sir. If a man cannot make money for himself, his services are not needed even at fifteen per cent.

By Mr. Hurrell:

Q. Well, do you believe in the theory of the insurance commissioners as expressed at their last meeting as to contingent commissions? A. I do, yes, sir, because it makes the agent a part of the company, and they a part of him. The closer you can get an agent to the company and the closer the company to him, the better the results for all parties. Now, if an agent is starting with a fifteen per cent basis, and he gets ten per cent on a contingent, he is getting an interest in that company. He is interested with them, as far as his ten per cent is concerned, although he is not a stockholder. He is a part of them.

Q. Is there anything you have to suggest, in behalf of the agent of these smaller communities that has come to you by reason of your experience in that line? A. No; only we would like more commission if there is any way that can be obtained without embarrassing anybody.

By Chairman Merritt:

Q. Well, this contingent commission arrangement would result in that if everything went well, wouldn't it? A. Yes, for the simple reason that if the companies make money, they can afford to compete, and if they are losing money, even at fifteen per cent, they are behind.

Now, as an illustration, Mr. Merritt, during the year 1899, I lost $240,000 in 1899; I lost $170,000 in 1900; I skipped a year and lost $254,000. I am talking now about the protected business inside the city of Glens Falls. The year 1910, up to date, shows that we have lost inside the city of Glens Falls on protected business which I am saying, that the rate goes down and the commissions remain the same, the sum of $2,300, which shows a betterment of the physical condition, as well as the fire department and everything that is connected with the business.

Charles F. Hildreth, called as a witness, being duly sworn, testified as follows:

By Mr. Hurrell:

Q. Mr. Hildreth, are you a local fire insurance agent? A. Yes, sir.

Q. Situated at what point? A. Freeport, Illinois.

Q. You write for New York companies in your office? A. Yes, sir, among others.

Q. You are in the jurisdiction of the Western Union? A. Yes, sir

Q. And what commissions do the New York companies pay you in your agency? A. Fifteen, twenty and twenty-five per cent, according to the classification of business.

Q. What is the twenty-five per cent class? A. Private dwellings and barns and connections, public buildings, churches and school houses, I believe, are the only twenty-five per cent business.

Q. And what is the twenty per cent class? A. Twenty per cent is on brick mercantile buildings only.

Q. You are a member of the National Association of Local Agents? A. Yes, sir.

Q. You have heard the testimony here to-day also? A. Yes, sir.

Q. Right on this question of commissions, what is your opinion of the contingent commission plan of payment to agents? A. I have been inclined to answer that as Mr. Markham, that it looks good on its face. I do not know whether it is practical or not.

Q. What is the practical objection to it, if any? A. I am not absolutely sure that there is any good practical objection. The greatest objection that I heard offered to-day is that if a company experiences a loss in the early part of the year, there will be no incentive to the agent — that is, a loss of any considerable size so that contingency would make his contingent commission amount to nothing — there will be no incentive to the agent to give any business to that company during the rest of the year. Personally I do not believe that is a very serious objection, but it is the objection we must face undoubtedly.

Q. It presupposes that the agent is not going to deal fairly with his companies? A. Yes, and that is a presupposition I did not want to admit for himself.

Q. As a matter of fact, what is your honest belief about that? Take agents not only in this local association, or this National association, but the general run of agents, do you think a fire insurance agent has the interest of his company at heart, or the in-

terest of his own pocket book? A. Well, without any desire to be personal, I think the fire insurance agents are very much like attorneys and physicians and everybody else. There are good, bad and indifferent among them. In point of numbers I presume the agent who has the company's interest at heart is comparatively small. In proportion to the amount of business done, or volume of business done, I think the agents, good class of agents, are in a majority. There are a lot of camp followers everywhere and in every community among the agents.

Q. What do you think of this general proposition of the limitation of the commissions of agents? Do you think the agents — take the agents in your field — up to the twenty-five per cent limit, don't you regard that as somewhat higher than the agents could get along with? A. I think I am a little bit out of sympathy with most agents in that. I would personally be perfectly willing to have my salary or my commission reduced if the thing could be so uniformly done that I would not be brought in competition with the people getting a higher rate of commission. I think the business of the country, the fire insurance business of the country, can be done by a vastly smaller number of men, and at a lower rate of commission, provided it was uniform.

Q. That is, you would couple your belief for a small rate of commission with some system that would check out a lot of the men that are now in the field? A. Yes, sir. I think the business is supporting too many men, or partially supporting too many men.

Q. Well, what is the complement of that idea? What would you do? What would you have the State do to cut out this great number of men? A. I do not know that I can answer that question.

Q. Are you the secretary of the association that Mr. Markham spoke about, the head of the committee that is getting up the statute to recommend to the Illinois legislature? A. No. No; that is Mr. Drake of Chicago.

Q. Do you believe that the State should lay down the test for the qualification of local agents? A. I do not know whether I do or not. I think there should be a test; a practicable working test, but I do not know just what it is or how it should be done.

I have not given thought enough to it to know if I could think it out.

Q. What are the conditions in the field in the State of Illinois, outside the city of Chicago, as to the rates? Who makes the rates for you out there? A. You have an independent rater, termed a publisher in Illinois; a man by the name of Parrish; C. F. Parrish.

Q. You have an Anti-Compact law in Illinois? A. No, sir.

Q. Does he operate in the same way that the independent rater operates in St. Louis, that Mr. Markham spoke about, sell his rates? A. I suppose that he does. I don't know the detail of the work of the office.

Q. You come in contact with the independent rater, do you? A. Quite frequently.

Q. He sells the base rate, and the schedule rate, for the different risks in your town, for instance? A. Sells them to the company, the local agents get them from the company; rather, we get them from him, but the companies pay for them; we don't pay for them.

Q. Do the companies observe in general, and uniformly, the rates that this independent rater sells? A. Speaking of our own town, where my observation carries me, they do, yes, sir.

Q. Is there an agreement, do you know, something, a gentleman's agreement or something in substance of that kind, that the companies operating in Illinois have? A. I think not. I think it is more an agreement, or a tacit understanding among the agents in each locality, in each city, rather than an agreement among the companies.

Q. Was there ever a rating commission attempted in the State of Illinois, outside the city of Chicago, that you know of? A. Yes, this same man who is now running the Independent Bureau, Mr. Persch, was for many years Secretary of the State Board; and the State Board provided the ratings in the earlier days.

Q. When did the State Board cease business? A. It has not ceased business, but it has been divorced from the rating function. The State Board was and is an organization of the field-men of the State, the companies representatives in the field at large, rather than the companies themselves. And until, it is three

years ago, maybe four years ago, that the State Board did the rating, through Mr. Persch, who was then secretary. He has retired from all connection with the State Board, but continues the rating on an independent basis.

Q. Were you a member of the State Board? A. No, as I said, that is the companies and field men, not local agents.

Q. You mean special agents of the companies, do you? A. Yes, sir.

Q. And what was the reason that the State Board ceased making the rates, and turned it over to Mr. Persch to do? A. I can only give an opinion on that subject. And that opinion is that it was in anticipation of the possibility of an anti-compact law, and the desire to be in readiness for it; and possibly a fear of prosecution under the conspiracy law of the State. These are only impressions; I don't vouch for them at all.

Q. You have heard it discussed to-day between the various gentlemen on the stand, as to the State making the rates, and I suppose are familiar more or less with the processes in vogue in Missouri and Kansas? A. Yes, in a measure at least.

Q. What do you think is the least objectionable form of a State control of the subject of rates? A. It seems to me if we must have that, and I am not convinced we must, if we must have it, I think that the least objectionable, and possibly the most effective way, would be somewhat as now railroad rates are controlled by the Interstate Commerce Commission; that the State Superintendent or State Commissioner, should not be the actual rate maker, but that he should exercise something in the nature of a veto power. That he should be the official to whom complaints of rates should be made; and that he should give a hearing to such complaints, and if well founded, that he should be in a position to give relief. But, I believe that should be followed, as is the case with the Interstate Commerce Commission rulings, with an appeal to the courts. I think the courts might very properly be the body to finally pass on the justice of a rate. Then, the condition would be somewhat different from that of the railroad rates, in that the commission, the Railroad Commission, having made a rate, can oblige the railroads to do business at that rate.

There would be nothing to enforce an insurance company to accept any risk at any given rate, and if a decision of the court finally was unjust, the company could refuse their rating on a particular class of business, at what they consider an unjust rate.

Q. That is, you think, the objection, to the objection raised to State legislation, could be met by the companies refusing to do the business, if the State made a rate that was too low? A. Yes, but I would want that rate making power so restricted, so no commissioner could lawfully order a reduction of ten, fifteen, or twenty per cent, in rate, without any knowledge of rate making, or insurance matters at all.

Q. Now, that is an interesting proposition that you have set forth; what information, in your judgment is it necessary, for this Superintendent or board of veto, to have concerning the rate before it acts? A. Well, I suppose, somewhere, soon or late, the question of classification possibly comes in. I am not a rate maker, nor a company manager.

Q. Have you had experience from the companies' end? A. No, sir.

Q. Were you ever in a company? A. No, sir.

Q. Do you know enough about your companies to know whether any of those companies that you represent, keep a classification of their loss experience? A. I think each individual company does.

Q. Then, I take it, if the companies were ever cited in before a Commissioner of Insurance, or Board of Review, on any rate, you would have them produce their experience in the class of business where the rate was attacked, as part of the evidence as to whether the rate was or was not justifiable? A. I think so, yes, sir. I am not offering this as a panacea; only as a vague impression.

Q. You are offering it in answer to my question, as to what were the least objectionable forms? A. Yes.

Q. Do you know whether the State Underwriters' Association of Illinois, when it was operating attempted to keep track of the experience of its members? A. I cannot answer that from personal knowledge. I can only say my impression is it did not. I think it did not, but I don't know that.

Q. You have the valued policy in Illinois? A. No.

Q. Any anti-coinsurance laws? A. No, sir.

Q. What is your opinion about the preferred business, Mr. Hildreth; do you think the commissions that are paid for the preferred business should be continued to be paid by the companies? A. I think it is pretty generally admitted that there should be no preferred business.

Q. That is the general belief of the leading underwriters, is it not? A. I think it is.

Q. That preferred business is a mistake? A. Yes.

Q. And isn't the reason for it that the preferred business as a class is paying a much higher rate than it ought to because of its loss experience? A. I haven't access to the classification of experience, but that is very generally supposed; yes, sir.

Judge Bruce: If that were not true, it would not be preferred business?

The Witness: I think that is the answer. I think the better class of underwriters, I really think, they think there should be no preferred business, and that the companies should figure the charges so accurately that no class of business would yield an abnormal profit.

Q. As a local agent, are you in a position to say whether the companies don't press you to give a large portion of this preferred business to them? A. Well, in my own experience I think that pressure is of a rather indirect character. I naturally find that a company to which I give a good volume of preferred business, in turn favors me by accommodating me with large lines on what is considered less desirable business; so that it is an indirect pressure that is brought to bear rather than direct pressure. And yet, there is a further answer that the usage of no two companies is exactly alike in that respect. Some companies are easily satisfied both in volume and classification, and others are less easily satisfied.

Q. How large is Freeport, Mr. Hildreth? A. Uncle Sam hasn't told us yet; I think about 18,000.

Q. Have you any suggestions that you think would be advisable for any State to adopt in relation to commissions, payment to agents of any compensation, or any restrictions that might be helpful to agents in small places? A. I don't know that I have anything specific; no, sir.

Mr. HURRELL: Any questions, Mr. Chairman.

Chairman MERRITT: None.

The WITNESS: One other matter, if I may: You spoke, Mr. Hurrell, of the Western Union territory. I don't want in my answer to be understood that that matter of organization, that the Western Union has entire control in that field. There are a great many non-union companies, which are not governed by this scale of commissions at all.

Q. Do you represent in your office those non-union companies as well as the union? A. No, I do not.

Q. Are there some of the non-union companies in other offices in town? A. Oh, yes.

Q. What percentage of business do you suppose the non-union companies control in that territory? A. I haven't no means of knowing.

Q. You wouldn't like to volunteer an opinion? A. Well, it would be so rough a guess at it, it would have no value at all.

Q. What rule do you find yourself under in reference to taking non-union companies; do you know of any rule of the Western Union that governs you on the taking of non-union companies into your agency? A. At present, there is no rule that controls the situation.

Q. None, as you know of? A. I am perfectly free to take in any company I see fit.

Q. The taking in of the company does not affect a reduction of the commission you get from your union company? A. No, that is not true. That is the controlling situation.

Q. How does it, suppose you decided to take in a company that was not a member of the Western Union, what would happen to you from the point of view of the other companies? A. The commissions would automatically be reduced.

Q. To what figure? A. To fifteen per cent.

Q. To a flat fifteen per cent? A. Yes.

Q. So the penalties of the Western Union to you, if you try to do business with members on the outside, is that you get your twenty and twenty-five per cent commissions cut off and reduced to fifteen per cent? A. Yes, sir.

Q. Is there any other penalty that would be visited upon you?

A. No, sir; that is, not organization penalties; my standing with individual companies would be affected some by the fairness with which they thought I treated them.

By Chairman Merritt:

Q. You don't represent any outside companies? A. I do not at the present time; I did formerly.

Q. It didn't pay in the long run? A. That is just what I thought about it. There was no pressure, I may say that in fairness to the company; no pressure from my union companies to drop my non-union companies. It was a consciousness that I wasn't doing justice to the people I called on to carry my big lines of insurance. In other words, when I had the non-union companies, and was getting a higher commission from them, the natural tendency was to treat them with favoritism, yet to go back to the big companies, which were in the main union companies, and ask them to help me out on the lines where I needed help. In other words, I was asking favors, and not granting any.

Judge Bruce: In your opinion, do the union companies write a very large proportion of the business in the territory where they operate? A. Yes, a very large proportion; when the large cities, with the heavy congested districts are taken into account; but in our own town, which was for many years the home of the German of Freeport, which failed after the San Francisco fire, the non-union companies have always held rather a whip hand, I should say, in the point of premium income.

By Mr. Hurrell:

Q. Is there a combination in your field, of the non-board companies, or the non- union companies, or are they running, — that is, is there any uniformity of action among them? A. There is a kind of non-union union now, which is a very new organization.

Q. There is? A. Yes, sir. Formed, I should say, within six or eight months, of the form of the Western Insurance Bureau. It is made up of a good many of the leading non-union companies. They are not all included. Some are in another organization, but that has given up.

Q. Do you know what the objects of that union are? A. I know to my own satisfaction, yes, sir.

Q. Well, what is it; what is your impression about it? A. The experience in that whole Western field was that the non-union companies were interfering with each other in the same agency, in the matter of the payment of commissions, and the burden became unbearable apparently, and while they always condemned the combination on the part of the union, they found it absolutely necessary for self-preservation to in a measure, imitate the example of the union.

Q. So, the reason they combined was to keep each other from competing with each other? A. More to protect themselves against each other than against the union, I think.

Mr. HURRELL: That is all.

CHARLES W. COOL, recalled for further examination.

By Senator WAGNER:

Q. Just that the record might be straight, I wanted to ask you,—I recall that you stated, that if the Glens Falls Insurance Company would separate its income from investments from their profits from the fire insurance, pure and simple, that they would not show any such dividend, as was reported; that is, the profit represented by the dividends they paid during the past year? A. In the fire business?

Q. Yes. A. Yes, sir.

Q. I looked up the report which the company made to the Superintendent of Insurance, and I find there that last year on the capital, the original capital of $200,000, their profits from the insurance business alone amounted to about $287,000, and their profits upon their investments to a little less than that; and as the amount of dividend which they paid amounted to $230,000, that was less than their actual profits from the insurance business during the last year. In other words, upon their original investment they made a good deal over 100 per cent of profit? A. Well, they paid a good deal more than that, they paid $130,000.

Q. They paid $230,000 in dividends. A. Yes, sir.

Q. But their profits amounted to about $287,000. In other

words, they made a greater profit during the past year than the amount of dividen ls which they paid,— profits out of the fire insurance business alone? A. Possibly the Glens Falls might not be the proper company to apply ihat to, for the simple reason that the Glens Falls writes nothing unless it is under water, and I don't mean that facetiously.

Q. I thought you wanted to have that corrected. A. I mean to say, the Glens Falls Insurance Company don't have to do any business whatever, any fire business, it could merely sit right there and declare a hundered per cent dividend every year.

Chairman MERRITT: On their investments?

The WITNESS: Yes, sir. As you will see, the investment is a greater amount than the capital stock.

Senator WAGNER: Yes, that is true. But it is less than your earnings.

By Senator ALLEN:

Q. Mr. Cool , where did your company get all that surplus? A. I will tell you. They don't let me into the inner schemes of it; but that has been accumulating since 1848.

Q. It was made a stock company when? A. 1849, I think.

Q. No, 1864. That was profits that had accumulated in the past from insurance business? A. Yes, sir. It was a mutual company prior to that time. The people that went into that company in 1849, or when it was, I don't remember — they never put up a cent, a great many of them, they merely gave their notes; and they never had to redeem them. The business then was profitable. They wrote a fire business when fire insurance was good; and since then they have been writing nothing but dwellings, churches, school houses, and a very small line on the manufacturing plants. Their business is confined principally to dwellings, churches and school houses, and small lines on mercantiles.

Q. According to their reports since 1864, on $200,000 capital, it has paid in dividends $2,020,000, and they have accumulated a surplus, in addition to the dividends, of $4,457,594; which would show that at some time in their career the fire insurance business had been highly profitable? A. Yes, but in those years

they didn't pay any salaries to speak of; people worked almost for nothing. It is only in very recent years that they ever paid a man more than $4,000, even the president.

By Senator WAGNER:

Q. In the past year, after paying their salaries, dividends, and everything else, they still made a great deal over a hundred per cent profit on the fire insurance business alone, on their original investment? A. That I can't say.

Q. The records show that was the case. A. Then it comes down to the question of preferred business, dwellings, which they have been writing principally. Take and follow them all the way through. They have written a very large business West; over half of their business is West of Chicago.

Senator ALLEN: I looked through several other reports there, and I found nearly the same amount of profits in all the concerns, that had not been in business quite as long; that is, they had accumulated, many of the companies, this immense surplus, from the business, besides paying those enormous dividends.

The WITNESS: They had, fifteen years or more ago, they have owned mortgages, and bonds, which pay them six per cent, and until recent years, very recently, they hadn't had anything that didn't pay them six per cent, which you will grant is quite an increase over the per cent rate now being paid.

By Judge BRUCE:

Q. This line of risks you mention, churches, school houses, farm dwellings, do you call farm dwellings a good fire risk? A. I don't call a farm dwelling a preferred risk, no, sir, because they have gone out of that business practically, for the simple reason they haven't made any money on it. A majority of the companies have gone out of the farm business.

By Judge BRUCE:

Q. What line of risks are they now writing, principally? A. Dwellings, churches, school houses, mercantile risks, and a small line of the general class.

Q. Do you call those preferred risks? A. I call a brick mercantile block a preferred risk; and I call a dwelling a preferred risk, yes sir.

Q. Why preferred? A. Because the loss ratio on them is less than it is on other lines.

Q. That is to say, because the premium charge is too high in proportion to the losses sustained? A. Well, you might take it either way. If they get what the agent should have, then they can make the money, but if they pay the agent what they ought to, of course, that reduces the net premium on that risk.

Q. In classes of risks of that character, is it not a fact, that the assured is in reality paying a larger premium than the risk incurred would warrant? A. That depends on the year in which you take it; on the number of losses.

Q. Take over the course of years that the Glens Falls have been writing, when they made this large accumulation of surplus, and paid large dividends? A. They made it all in the course of years when the rates were higher, and the commissions remained the same.

Q. If rates were equitable, there would be no preferred business, would there? A. It is a difficult matter to get at that rate.

Q. If rates were leveled equitably on all risks in proportion to the amount of loss likely to be sustained, computed upon the experience of many years, and every risk would bear its proportionate part of the respective loss, there would be no such thing as a preferred risk? I ask that simply for this purpose, that a great many of the complaints that come to this Committee are of this nature; that risks similar to those you have mentioned here are charged a higher rate of premium than the loss sustained, based upon the experience of years would warrant; and assured who have such risks as that are called upon to bear the losses which are really sustained by more hazardous risks? A. I can only answer that by saying that would be making the rate, in making a rate of that kind now, you are making it on the past experience, not upon what the future will be.

Q. The only way to judge of the future is by the past, isn't it? A. No, not at all, for the simple reason that the future may be entirely different. We didn't expect these fires that have hap-

pened here; we didn't expect the Chicago fire, the Toronto, Buffalo, Baltimore, and San Francisco fires, but we got them, and we had been making money right along prior to that. But if you was to make the rate to-day you would have to make it on that experience you have had, rather than ten years back, where you made your money. That is what I mean. You understand me?

Judge BRUCE: I think so.

Mr. HURRELL: That is all, Mr. Cool.

EDGAR J. TAPPING, called and sworn as a witness, testified as follows:

Examination by Mr. HURRELL:

Q. Mr. Tapping, what is your business? A. Fire insurance.

Q. What other lines of business are you in. A. Manufacturer.

Q. Manufacturer? A. Yes.

Q. What line of manufacture? A. Manufacturing not rails, but re-rolling rails; practically; not making rails, but re-rolling rails for railroads.

Q. That is, steel rails? A. Steel rails.

Q. What line of insurance business are you in? A. All except life; general insurance business, excepting life.

Q. That is, as a general agent? A. As local agent.

Q. As local agent in Milwaukee? A. Yes.

Q. How long have you been in the insurance business? A. 25 years.

Q. You belong to the National Association of Local Agents? A. I do.

Q. And have served that association in what capacity? A. various capacities, including president.

Q. As president? A. Yes.

Q. What office do you hold now in that association? A. I think I am a member of one of the committees, is all I recall.

Q. What is the situation in Winconsin on the subject of a rating bureau; is Winconsin an anti-compact State or not? A. Winconsin is an anti-compact State, but I believe we have a

modification of the plan, of the principal there to this extent, and I believe we are the only State in the United States that has it. The law there permits local agents to form boards in their various communities, and through those boards to make rates.

Q. You have seen the state of law on that subject changed, have you not? A. Yes, sir.

Q. What was it, going back not too far, but long enough, as far back as you want to go to illustrate what the history of the legislation has been on that subject? A. The only change that has been had since my experience, was from the old method of no restriction whatever, to the one I have just stated.

Q. And during the period when there was no restriction whatever, how did the companies make and enforce their rates? A. Identically the same as they do now, excepting then the companies had the final say, and now the local agents have. The same machinery was applied exactly. But the adoption of rates isn't legal in Wisconsin, that is, the rates are not legal until they become so by the adoption of the local agents.

Q. When did this law become effective? A. I can't tell the year, but I think it has been in force 12 years or more.

Q. Was this law one that the local agents themselves agitated? A. No.

Q. What was the law the result of; an agitation against the companies? A. Popular agitation, and of the agents, too, along the same lines as have been spoken of here to-day; influencing local opinion throughout the State, we secured this modification; the idea being out there, that the interests of the State would be fully protected if they left the determination and approval of rates in the hands of life fellow citizens of the State; their own neighbors.

Q. And do you know whether the application of this law has led to the uniformity of rates throughout the State? A. It has not led to it, because that was already in vogue, but it has maintained it, I think, with entire satisfaction. I think since it has been under the present operation there has been no reasonable amount of complaint, if any. I don't know of any complaint from any citizens in any part of the State that the rates are not satisfactorily adjusted, although, of course, except there are such

as I have heard here to-day; but I mean not any particular number not sufficient to call up any agitation of any kind at all.

Q. Is the rating all fixed there by county boards, or do you have city boards or outside boards of counties, of bigger districts than that? A. There could be county boards; it is by towns and cities. As I stated, the machinery is identically the same as it was before. It is simply a question of the approval of the local boards making the rates legal.

Q. How far does the company influence extend into these local boards on this subject of making rates? A. It does not extend as far as they would like to have it, by any means. I can illustrate that by going back some years ago; I think it was after the Baltimore conflagration. The companies in general tried to insist on a flat advance of rate, all over the Western territory. I presume they did in the east as well. It so happened that Wisconsin had just adopted a new schedule of rates throughout the State, and it was supposed to be a very intelligent schedule. Only a short time after that the companies asked the agents, through these local boards, to pass a flat advance of 25 per cent above these rates, and the agents refused.

Q. This was after the San Francisco conflagration? A. No, not the San Francisco, Baltimore. The agents refused, and the advance wasn't obtained.

Q. Did any companies withdraw from the State? A. Not any

Q. Do you know whether there has been a fair increase in the number of companies admitted to do business there in the last few years? A. I think it will probably average with any State in the Union, any profitable State.

Q. How many times, for instance, has there been a general adjustment of rates since the Baltimore fire? A. In Wisconsin you mean?

Q. Yes. A. I think only once. I don't think there has been any; I think the adjustment occurred just before that. As I recall it, and after that conflagration which followed two or three minor conflagrations. Then the companies requested a flat advance, advance between the schedule then, a flat advance of 25 per cent, and a flat advance was absolutely declined by the agents, and was never enforced.

Q. Was there any advance after the San Francisco fire? A. No, not any.

Q. Is there any provision of law which limits the number of men, and the kinds of men that can go in the insurance business in Wisconsin? A. None.

Q. Is there a central bureau of these local boards, kept by and representing these local boards in the State anywheres? A. Yes.

Q. And does that central bureau act as a clearing house, where the machinery can be used to keep the rate the same in far distant points, as it is in the other end of the State? A. I can't tell you absolutely as to that. I simply know there is a central board, a State board, which is composed of special agents representing the companies; and that board promulgates these rates; they have experienced men actually on the line, of these men you have been talking about here to-day; men skilled in the art of making rates; and then their rates are reviewed by the central office.

Q. Has that bureau of review of rates anything to do with the question? A. I don't know; I can't tell you that. I simply know that is the source from where the rates are promulgated, as to various communities now, there is one exception that I know of, Milwaukee. We have a local board entirely independent of the State board. We make our rates without any interference or assistance of any sort.

Q. Are you a member of that local board? A. Yes.

Q. Were you ever a member of the rating committee? A. There is no rating committee, there can't be, it is a one man institution; that is, the rates are all made by one man, experienced in that, and then they are approved by a vote of the board.

Q. Do you know whether that man in making up his rates for the city of Milwaukee, for instance, ever used the experience of a company, or the experience of companies? A. No, I am quite sure he has not.

Q. Quite sure he has not? A. Quite sure he has not.

Q. I take it that that community of interest between the agents and the company would tend to make the agents feel more responsible to their companies? A. It did not. It appeared in the case I told you of; the only time that was ever brought out

the agents stood by the citizens, absolutely and positively refused to do the bidding of the companies.

Q. I think you answered they have schedules there which apply to various risks? A. Yes, we have various schedules.

Q. What schedule is in operation now? A. There is more than one schedule in Milwaukee. For instance, in what is known as the congested district, the downtown district, we are using very largely, if not entirely, the so-called Dean schedule which is thought by most of the underwriters, to be the most advanced schedule that has been brought to light so far.

Q. That is where the charges on the base rate run by per centage instead of by flat additions? A. That is, there are a great many more differentials than there are in any other schedules.

Q. What is a differential? A. I mean by that, that it goes into more details, it goes into more sidelights bearing on making the total rate. For instance, the schedules up to the time of the Dean schedule took little or no cognizance of different classes of what they called the burning rate. For instance, the Dean schedule would take a building that is occupied by several tenants, and differentiate the rate more strictly, more in detail, for each of those tenants in proportion to the combustibility of the stock, or the likelihood, than any of the attempted schedules have done — it tries to make each man's rate more nearly fair. For instance, you take four tenants in a building and the old schedules would charge each tenant the highest rate.

Q. That is the way they do here? A. That is not done in the Dean schedule.

Q. How does he treat it? A. He varies it in proportion to the susceptibility of the damage by each tenant. For instance if a man has a stock, dealing in feathers, in a building with a man who has boots and shoes, the man with the feather stock would pay a very much higher rate than the man with the shoe stock, because the same amount of fire and water would damage the feather stock much more than it would the shoe stock, they being in cases.

Q. Do you know whether — I am not sure whether we are going to have Mr. Dean here, assuming that we are not, do you

know how he arrives at the method he applies in doing this, what does he use as the basis? A. It is a long time — Mr. Dean has published several books on this subject, and I have read them, but I must confess I have not read them for a long time, and I could not begin to do that, and I doubt whether there are many local agents who could give you that. It is the consensus of opinion that Mr. Dean has displayed more knowledge than any man who ever attempted to produce a schedule covering fire insurance rates.

Q. Do you know whether he approves at all of the idea of a combined classification of experience? A. I do not.

Q. Does the local agent in Wisconsin require a license to do his business? A. Yes.

Q. Who licenses them? A. State Department, Insurance Department.

Q. Does that license run to the agents of domestic companies as well as foreign companies? A. Under the laws of Wisconsin every individual who solicits insurance is termed an agent.

Q. No matter whether he is in the end the agent of the assured or of the company? A. Well, he is the agent, I suppose, of the company that he places insurance with.

Q. Do you have such a thing as insurance brokers out there? A. We do not style them as brokers. Of course, in the last resort they all amount to the same thing. We have what are known as solicitors, but the State does not recognize them as anything but agents.

Q. Those solicitors are attached to the office of the company? A. The State does not consider them ——

By Chairman Merritt:

Q. (Interposing.) They represent the assured or the company? A. They are just the same as the agent who signs the policy.

Q. They are paid out of the commission from the premium? A. Yes.

By Mr. Hurrell:

Q. What is the requirement of the Wisconsin law that an agent must meet before he gets his license? A. The main requirement

is the payment of a two dollar fee, and there is a requirement, I believe, that application must be made by the company for which he asks a license.

Q. Do you have an anti-rebate law? A. Yes; we have.

Q. Does it amount to anything in particular? A. Yes; I think it does.

Q. Do you know whether an agent that rebates part of his premium is liable to have his license revoked by the State? A. He is.

Q. Are there any other penalties? A. I think not.

Q. Do you personally believe in the question of regulation of agents? A. Do you mean — what kind?

Q. The licensing and the holding over them the penalty of losing the license if they rebate their commission or any part of it? A. I do; but I don't think it is made thoroughly effective with that alone. I think the anti-rebate law should also provide that the assured, in accepting the rebate, should have the insurance become null and void, to make it very effective.

Q. If that were possible as a constitutional matter? A. I mean if it were possible; it never will be largely effective without some such restriction.

Q. Do you find the agents, that is, the fellow agents of an offended member are keen to bring the evidence of his rebating home to him? A. No; because of the almost impossible hope of convicting him.

Q. Now, who passes upon whether an agent has rebated or has not rebated? A. I think that is in the Insurance Department. Our law is only two years old, and I think there has been only one case of complaint in that time; the party was acquitted, although everybody knew he was guilty.

Q. Have you anything else that you think will be helpful in governing, in regulating the agents? Would you make any standards which prospective agents must meet before they get their licenses? A. Yes; I should always feel that if a barber has to pass an examination as a test in order to ply his trade, and a man who shoves a vendor's cart has to have his license, there ought to be some step of a higher grade than that, for a man who gives contracts out over his signature, which means ten and hundreds

of thousands of dollars the minute the ink is dry, I think it would be a simple matter to get up a code or examination to test the fitness of a man signing such contracts.

Q. You think that the two dollar license fee is adequate? A. I do not think any license fee is adequate alone. I do not agree with Mr. Markham this morning, that the fitness of the man should depend simply on his standing in the community or his integrity or his standing as a business man. I think beyond that he ought to know the application of his contract and its various riders under all contingencies. For instance we have in arguing the point for our Legislature in Wisconsin, we have called attention to the fact that, as is the case, very many small bankers are insurance agents. They are bankers ninety-nine per cent of their time and insurance agents one per cent. That one per cent in many instances does not give them experience enough to make them insurance men, although they are very intelligent men in their banking industry.

Q. And that could only be reached by some kind of an examination to test their qualifications? A. Some kind of an examination.

Q. How long ago was the valued policy law put on the statute books of Wisconsin? A. I cannot tell exactly, but I think it was the first State where it was adopted, I think over thirty years ago.

Q. Do you know whether the existence of that law had any effect upon the average rate of insurance? A. I think, as Mr. Markham said this morning, it is only trifling.

Q. You would say the same from your experience in Wisconsin? A. I would accord with his sentiment on that point.

Q. Is there anything attached to the history of that law that is interesting at all from an underwriter's point of view? A. I do not know as it is interesting to this Committee; it is interesting to insurance men, as all of those things are, to know what probably brought them about.

Q. It may be of interest to the Committee, because the subject has been up before the Committee several times. What was the cause that led to the passage of the Valued Policy Law? A. Because in Wisconsin, that is, in the early days of insurance the men who went around among the farming community selling

lightning rods invariably sold insurance at the same time, and they knew nothing about the business and they were constantly inducing farmers to overinsure their buildings, in order to make their commission on the transaction; then when the farmer had a fire he found out that the agent who induced them to put more insurance on the building did so only to obtain a premium, and they received no return, and it was not very long before the grangers in the Legislature decided they would take a hand. So they conceived the Valued Policy Law — I believe it was the first State to adopt it — that in case of the total loss, the face of the policy should be adjudged the measure of damage. As Mr. Markham said, our Supreme Court has also decided that any remaining portion of the structure applicable to its rebuilding — it shall be considered that the property has not been totally destroyed, and that immediately throws it into an appraisal, and makes the Valued Policy Law null and void.

Q. They count the foundations as the part of the building not destroyed? A. Yes.

Q. What is the situation in your State regarding this co-insurance clause? A. We are permitted to use it. It is even prescribed, by statute, absolutely, as to the form of the clause, even the type and all; it is all prescribed by statute.

Q. Do you find any general objection to it out there? A. No; not in the least.

Chairman Merritt: This Commission is adjourned until to-morrow, at 10 a. m.

Adjourned until Wednesday, December 14th, 1910, at 10 a. m.

THIRTY-FIRST PUBLIC SESSION OF THE LEGISLATIVE INVESTIGATING COMMITTEE.

Aldermanic Chamber, City Hall.

New York, *December* 14th, 1910 — 10 A. M.

Present — Hon. Edwin A. Merritt, Jr., *Chairman.*
Hon. Alexander Brough, *Vice-Chairman.*
Hon. Victor M. Allen.
Hon. Robert F. Wagner.
Hon. Frederick R. Toombs.
Hon. James A. Foley.
Hon. William W. Colne.

Hon. M. Linn Bruce, *Counsel.*
Alfred Hurrell, Esq, *Assistant Counsel.*

Chairman Merritt: The Committee will now be in order.

Alfred R. Conkling, called as a witness, being duly sworn, testified as follows:

By Mr. Hurrell:

Q. Mr. Conkling, have you any complaint on the matter of fire insurance rates to lay before this Committee? A. Yes, sir, shall I state my business and what I represent?

Q. Do you represent yourself or some other person? A. Estates; several estates, and so forth. I am trustee of several estates in this city; executor and administrator. I represent about 35 buildings. I am president of the Realty League and Association of Freeholders, banded together for protection of the value of properties of $200,000,000, chiefly in the Borough of Man-

hattan, in the form of real estate. I own property myself in my own name in various parts of the Borough of Manhattan, and so do my family, sisters and brothers and all my connections. I wish to call the attention of the Committee especially to the rates on my building No. 11 Lispenard street. Shall I read this?

Q. How do you spell that name? A. Lispenard.

Q. You have that property insured for how much? A. $20,000.

Q. What rate did you pay for that property? A. I cannot very well, sir ——

Q. In the year 1901? A. 1901, policy for three years, amount $20,000, three year rate $1.15; premium $230.

Q. Now, how long did the rate stay at that amount? A. Three years.

Q. What was the rate in 1904? A. It was $1.129, $225; a trifle lower.

Q. That is for $20,000? A. Yes, sir.

Q. What was it in 1907? A. It was increased to $2.593, or $518.60.

Q. And what was it when the next three year period went around? A. 1910 it was $4.127, or $825.40, nearly four times as much.

By Chairman MERRITT:

Q. Annually? A. No, sir; every three years.

Q. The three year period? A. Yes, sir, nearly four times, but by fighting the insurance company very hard through the brokers, who used the influence of the office, because these agents are the biggest agents in their line in town, we got it down to $719.16.

By Mr. HURRELL:

Q. Who are your agents? A. Just a moment; a little more than three times the premium of nine years ago, although the building is used for the same purpose; auctioneer on the first floor and a garment worker is upstairs. The neighborhood is an improved neighborhood, and is improving a little bit. The Telephone Company has bought three or four lots there and the

neighborhood is coming up. My neighbors are Douglas Robinson and Charles L. Brown & Co.

By Chairman MERRITT:

Q. Brokers? A. They employ a broker, Mr. Chairman. You see they have charge of the entire estate of our family in connection with my other properties. They have insurance men, but I think it generally goes through a broker.

Q. Did you ever ask this firm or ask their brokers that they used why this rate went up from $1.15 in 1901 to $4.127 in 1910? A. No, sir. I had to take my medicine. I could not help it.

By Mr. HURRELL:

Q. Did you ever see the schedule? A. No, sir, I simply asked for a reduction and this time I got it because we pressed the matter very hard to them.

Q. That is when the rate went up from the 1907 rate which was $2.593, to the 1910 rate $4.127, something happened so that you could reduce it to —— A. (Interrupting.) $719.

Q. You got it reduced to $3.577? A. No. A little more than that. The total amount is $719. Figure out that per cent on $20,000.

Q. Did you make any improvements in your building to get that reduction? A. No, sir, there was a slight depreciation; the ordinary wear and tear of the building. It is a six-story building with elevators for freight and passengers and no steam heat; heated by stoves; a brick building; pretty well built; built by ourselves; our own family and the adjoining buildings I own; to the west of it and the building to the east is the same as before, so there is no improvement for that slight reduction; more, if anything, a slight depreciation.

Q. Did you ever ask Douglas Robinson and Brown & Company if they could get an explanation for you as to why this kept on going up? A. No, sir. I looked upon it as a holdup, and all I could do would be to protest and ask for a lower rate. I might state there has been no fire in that street for 20 years; no bad fire.

Q. We can find out from this firm what brokers they used to

get this rate down. A. Well, perhaps the broker wouldn't be willing to be a witness, Mr. Hurrell.

Q. We will subpoena him at least. Is there any other specific instance of an increase in rate of any of your other properties? A. Well, I picked that out as a pretty good exhibit.

Q. That is the worst one, in other words? A. Yes, sir. Now, my private house in 60th street — there is not much change there. You see that is a very good neighborhood, and all private houses in the block and a brown stone neighborhood, and, of course, I could not remember — I represent so many buildings — I could not remember the premium, but I think that is about the same, but it may be a little higher. However, I would like to testify on information and belief without getting my books, but I took that as a most daring illustration of the extravagant unwarranted increase of rates in this city.

Q. How long, of your own knowledge, do you think that that occupancy has not changed in all these years? A. In that building?

Q. Yes. A. Oh, certainly, sir. I go in the building several times a year and know all about it; I sign my own leases, and so on.

Q. And the modes of transacting their business inside the building has not changed from 1904 to 1910? A. Absolutely, except, well, in fact, I think it is better than it was. Now, for example, on the second floor some years ago I had a firm of Belgians there who dealt in paper ornaments, the ornaments for the carnival, and so on; all kinds of paper ornaments, and now there is a drygoods concern there, which is less hazardous to my mind than the paper.

Q. On the second floor? A. Yes, sir; on the second floor ——

Q. And then you have an auctioneer on the first floor? A. Drygoods auctioneer on the first floor for a long time.

Q. A drygoods auctioneer? A. Yes, sir; drygoods auctioneer.

Q. What is above them? A. A garment works; used to be silk. I want to say, to be fair to the companies, that some years ago they naturally might have used benzine to clean the silk garments, but there has not been silk there for four or five years, or five or six years.

Q. Do they have hand sewing machines? A. Yes, sir; hand machines run by electricity, and cotton and wool garments.

Q. Do they do any pressing there? A. With a hot iron?

Q. Yes. A. Well, as long as I can't swear of my own knowledge.

Q. I was trying to develop the risk as it was. A. Well, there is a stove there; they heat it by stove in place of the steam heat.

Q. On every floor? A. Yes, sir.

Q. But you have always had the stoves there? A. Oh, always. The building is 21 years old; a brick building; built by ourselves.

By Judge Bruce:

Q. Mr. Conklin, have you ever asked the Fire Insurance Exchange for these schedules to show your rate was made up? A. No, sir, I left that to the brokers.

Q. Did they furnish you with that? A. Well, I assume that the brokers got it; got the schedule.

Q. Did the brokers show it to you? A. No, sir.

Q. Of course, you know the matter of making up the rate; starting with the base rate and from that building up and charging for anything which is extra hazardous, or any decrease, and crediting it with any extra precautions or extra appliances, and I do not know but what, perhaps, your broker has inquired of the Exchange and had been furnished with a schedule of rates? A. Well, they naturally had, but, of course, I do not go into details, you know. My business was to sign the checks, or rather the agents pay the payments out of my income, the accrued income, like other estates manage their affairs through an agent. I manage, of course, some of my own myself. There is an elevator there and a gas engine, and so forth. It is rather troublesome for a lawyer, with legal business, to watch a building like that.

Q. Our information derived from the officers of the Exchange would seem to indicate that the proper thing for a citizen to do who felt that his rate was too high, was to apply to them for their schedule, see how the rate was built up, and then see if it was not possible for him to relieve himself of some of the penalties, and it seems rather a circuitous way of getting at it, but that was the suggestion made by the officers of the Exchange, and then, if a citizen is not satisfied with the rate given by the Exchange, he can appeal to the Exchange? A. Yes, sir, but my rule was simply to

ask to have a reduced rate. The rate was $700. And I say, now, Mr. So and So, that rate is too high. Try and get a return premium and he does go ahead and negotiate and this time I had to fight it and got it down from $825 to $719. The committee will see that it is even more than three times the premium nine years ago; the same building and the same kind of business, and perhaps less hazardous. There is no paper in the second story now. It is drygoods.

Q. I wish you would have your broker, if you will, ask them for the schedule of your rate in 1900 and —— A. (Interrupting) These four years, Judge?

Q. 1901, 1904, 1907 and 1910, to see how this rate has been built up? A. Yes, sir, I will do that at once.

Judge BRUCE: It would be a satisfaction to you and it would be of interest to the Committee.

Chairman MERRITT: So you could see how they do it.

Judge BRUCE: Yes; how and why, and the way in which they justify it.

Q. Have you had the same experience with other properties you represent? A. Yes, sir; increase from time to time. Of course, I cannot remember the figures; there are about 35 buildings of which I am trustee, etc., in my own name.

By Mr. HURRELL:

Q. Where is Lispenard street? A. Next to Canal; two blocks; between Broadway and West Broadwey; it is improving all the time.

Q. It is down in the high pressure district? A. Yes, sir, the so-called pressure district, and as the remark came out sometime ago about reducing premiums in the high pressure district it has not been done. That has not been done although it has been promised.

Q. In the high pressure district where the water service has been increased? A. No, sir; not reduced as promised to. I speak of information and belief, that they were promised reduction a year ago and we have had no reduction. The high pressure there is very good; it is very low and lies on the old Lispenard Meadows in the city of New York. Before this property belonged to my

grandmother, and she died in 1848. This has been the property of the family for years. We built up that on swamp, and there is an asphalt foundation there, but that is low land, and I should think the water would run there through a pump, on the third or fourth floor; plenty of pressure there; plenty of water, and a fire engine house two blocks off around the corner, and the western side is exposed. Why, it is about as good as a corner. I would like to be in the insurance business with those rates.

By Judge Bruce:

Q. If you will, please get the rate schedule? A. Yes, sir; how that schedule is made up.

Q. If you will, please. A. Yes, sir, at once.

Edgar J. Tapping, recalled as a witness, being duly sworn, testified as follows:

By Mr. Hurrell:

Q. I was about to ask you last night your opinion on the subject of commissions generally. You may appreciate, on listening to the evidence of yesterday, that various persons, including commercial bodies, have recommended to the Committee the idea of going into the subject of commissions to agents, claiming that that is one item of excessive and unjustifiable expense. I would like to get your opinion upon that subject, and your reasons for your opinion. Do you think the commissions, the country over, paid to local agents, are excessive? A. I do.

Q. In what regard? A. I think that primarily the fact that graded commissions are paid at all is self-evident of the fact that too high commissions are paid. That there should be only one commission on all classes of property, and the very fact that there are paid several grades of commission, in my opinion, proves conclusively that the commission question is not arranged on an economic basis.

Q. Now, how would you answer the suggestion that has been made many times that it is proper to compensate the agent by higher rate of commissions for doing the small premium business

on account of the expense that he is necessarily put to in writing policies with the very small premiums? A. My answer to that would be that the whole method of obtaining the small business should be changed. It should not be solicited at all, with all that extra service for which the agent is paid, and not over-paid as it now exists, should be done away.

Q. Now, so that we can have the whole proposition under discussion, do you believe that the so-called preferred business is a detriment to the insurance business generally? A. I do.

Q. I what way? A. I look upon preferred business in this light: I think fully 90 per cent of the premiums that are now received from the so-called preferred business, would inevitably be received by the companies without any solicitation whatever, and I thereby feel that the remaining 10 per cent injects this additional expense, the burden of which has to be borne by the other 90 per cent. In other words, in order to induce 10 per cent of the community to insure, who might not otherwise insure their property, we inject an artificial expense which is spread over the 90 per cent of policy holders who would insure inevitably, and without this additional expense being injected they would get lower rates for the insuring their other property than they do to-day.

Q. What do you understand to be meant by the term "preferred business?" A. Well, there are various interpretations of the work, but I think, generally speaking, it certainly means to the insurance agent a class of business which is unduly or unusually profitable.

Q. What is that class usually considered to be? A. Well, in its highest essence it usually spoken of as dwellings, and it also includes, according to localities, school houses, churches and public buildings.

Q. Now, do you know whether the companies are very desirous of getting that business? A. I certainly do.

Q. In what way do you know that? A. Well, every local agent knows it from the fact that every company in his office is very glad to pay him much larger commissions for obtaining it than they are for any other classe of business.

Q. And is it, as a practical matter, necessary for every local

agent that expects his companies to take some hazardous risk that are in his locality,— that he must secure that company a certain percentage of preferred business? A. That is the rule.

Q. Now, as I understand your theory about preferred business you believe that the 10 per cent which you spoke of represents the people to whom the agent has to go to get the business? A. Well, would have to invitably or else that amount of premium would be lost. I believe that possibly that is putting it a fair figure; that out of the premiums to-day received from this so-called preferred business, probably 10 per cent would not be received at all if people did not go to solicit it, if it were not for the high commissions paid.

Q. Enabling men to give their time to do it? A. Yes.

Q. Well, do you think the result would be, if the commissions were leveled by company action or by statute, that there would be that 10 per cent going without insurance because no one solicited them? A. I think very likely.

Q. That would be their own fault, of course? A. Yes.

Q. And do you think the result would be that the expense thereby taken off on the other people would take care of the insurance of other men? A. Without question.

Q. And do you believe, as the companies are at present situated, that that would finally reflect itself in the rate? A. I think it would reflect itself in the rate all the way down the line; even to business in the so-called congested districts, because if the agent who cannot afford, as was brought out in the evidence here yesterday, to solicit this business, even at the high commissions should receive, each of such agents, his equitable or fair share of that business which would gravitate to the various offices, if no soliciting were done, he would get an additional profit which he now is deprived of entirely, and that, in turn, the doing away with these rates on so-called preferred business, would take a large percentage of the men out of the business, and a reduction of the number of agents in the business would give those remaining the living that they enjoy to-day, as well as a lower commission than they are even receiving to-day, on a low class of business; that in turn would enable companies to reduce the rates on any preferred business and the congested business, so called, as well.

Q. Well, you agree with the idea expressed yesterday by Mr. Markham, that one agency in a town would help things considerably, instead of several? A. Very decidedly.

Q. Now, is it a fact that there are certain companies in the field that make a specialty of this preferred business, and bid up on the commissions for that, and do not take the other business? A. Not to any large degree. They take as little of the other business as they can possibly.

Q. Are you at liberty to state which those companies are? A. Well, there is a very notable example mentioned here yesterday in the Glens Falls Company, which is probably as prominent in that line as any company in the country.

Q. That is a company that desires only this preferred business? A. That seeks the high rates, preferred business.

Q. Well, is that the answer in your mind to the singular success of that company; the fact that it has only at risk that class of business? A. No; I would not say that. I would say the Glens Falls, like other companies that make more of a specialty of that class of business; that in a measure, their remarkable success was due to their being established years ago when there was a larger profit more generally for well managed companies; I do not say for every company, but for well managed companies. They got an enormous start, and as the record read here yesterday evidently shows, they are to-day enjoying a very unusual return on their underwriting.

Q. Well, how does that company get along in the agencies if the other companies want preferred business, and if the preferred business companies must take on hazardous risks, how does the Glens Falls escape the inevitable of taking on hazardous risks in return for the big volume of preferred business? A. Well, I think that is very largely due to the great number of useless agents in the business; that they largely — I do not know this absolutely as a matter of fact, and it may differ in different localities — only a local agent can speak as to his own territory, but I think it is so in the territory where I live, at least. They will have representation in the offices of agents who are not so-called leading agents: who are making a more direct drive for the acquisition of business which they want to have. In other words, you

very seldom, in territory I am familiar with, find the Glens Falls in an office where the large representative companies that are actively engaged in insuring property in congested districts have their strongest hold.

Q. Well, there is, and this company is an example, in fact, that there is a very large profit in the preferred business? A. Without any doubt.

Q. What other companies that you know of that are making a specialty of this preferred business, have you any in the State of Wisconsin? A. We have a very notable case in the Northwestern National.

Q. Does that operate about the way the Glens Falls operates? A. I don't believe they are quite so exclusive in regard to insuring that class of business; in fact, it is understood they have been loosening up a bit, into a line of four or five grades.

Q. That is, they take in general lines? A. A little more, not a great deal; they are a close second to the Glens Falls in their operations.

Q. Do you know whether they operate in this State as a non-board company? A. They probably do; in some localities, yes, and they do not in other localities. I know their policy has always been to leave the matter of joining boards in localities entirely with their representatives. If he chooses to be a member, they do not object. But they never ask him to become such; and occasionally in certain localities under certain conditions, they insist that he be not a member of such board. But they are not known as a non-board company. There is a very great distinction, sometimes not understood in the lay mind, between a non-board and a non-union, or non-organization company. There are many companies, for instance, that are not members of the Eastern or Western Union, or any of the company associations, that are loyal board members. They are entirely distinct.

Q. The board having to do with rates? A. With local affairs only; and the company associations having to do with large territory.

Q. And with the subject of commissions? A. Somewhat, too.

Q. Thus, a board company, for instance, may be a board company, and yet a non-union company in this field? A. Yes, sir.

Q. And the result of that is that it goes into the field and bids up commissions against the union companies? A. Yes, that is right.

Q. Do you know whether that fact is true all over the country with the preferred business companies? A. Yes, I know that that is generally true.

Q. That you find them on the outside of the union, bidding up commissions? A. Yes, as a rule.

Q. So, as a matter of fact, it is the non-union element in the company organizations, that has put this evil on the business, and are creating all of it, or substantially all of it? A. Well, not creating the whole of it; they are the most aggressive.

Q. In putting up commissions? A. Yes.

Q. Of course, adding that expense to the expenses of the policy holder? A. Absolutely.

Q. All of that illustrates that there is a very great profit in the business, and rates must be higher than that particular class of business warrants, is that true? A. I believe so.

Q. Without asking you to mention any particular company in this, have you ever had any discussion with your companies, or any of them, concerning this preferred business; that is, do you gather your ideas, not only from your own observation, but from your companies themselves? A. Yes. Some years ago, when I was president of the National Association of Local Agents, I had a conversation with the United States manager of a large English company. He asked me if I had my heart's wish what I would like to have that company, and other similar companies do, about correcting the evils of the business. I told him that I would like, above all things, to have his company circularize the companies doing business in the country to this effect, giving them a reasonable time, and stating that on a certain date that company would, alone, if necessary, but would prefer to have company, would cut the so-called preferred rates in half. And this manager of the English company told me that, as I probably knew, they never took the initiative in any matter, they were followers rather than leaders.

Q. That was because they were a foreign company? A. They were a foreign company, and that that was the business policy

for a foreign company to pursue. I told him, when he made that reply, I believed if he were not a foreign company, he would make some other excuse; and he confessed he would. In other words, he would not turn his hand to do anything of this kind.

Q. If there were even an accurate classification which the companies use to develop this one class of business, and the profit in it, do you not think it would develop, be useful in greatly reducing the premium, which would mean a reduction of these exorbitant commissions, if the matters were brought to the proper authorities and made a matter of public record? A. There can be no doubt that the companies rely on their own classifications to make their own rates; and I think it goes without saying, if you had a combined classification for more than one company, just in that proportion, it would become valuable for making general rates.

Q. You mean the companies rely upon their own classification for making rates, wherever a company makes a rate? A. Well, it isn't so much for making rates, as for determining at what rate they are willing to write business, and can make a profit out of it.

Q. Or for determining what class of business they want to take on at the established rates? A. Yes.

Q. Have you given that subject of classification any particular study? A. No, I have not.

Q. Do you believe that it is possible in the varying degrees of hazard which are in various risks, to properly classify risks in order to get a practical basis upon which to work; or rather, to help you in working in making a rate, or help the companies? A. Certainly, it would be helpful, but not with the scientific accuracy, such as can be computed in life insurance. The unanticipated happens in fire insurance more than almost any other business in the world, I think.

Q. How long have you been in this business? A. 25 years.

Q. From your observation, where are the spots where you think companies could definitely save money, so that the saving could be reflected in the rate? A. I think the greatest points that the companies could effect saving in to-day, would be by combining their forces in making inspections of risks, and also, in the adjustment of losses.

Q. Now, from the local agents' point of view, what you observe in the field, how do the companies conduct this end of their business? A. The companies largely to-day, the only exception being that portion of the business which they conduct through what is known as the factory association, which is nothing more or less than a copy of the business principle established by the New England mutuals, maintain a separate and individual inspection on all the risks they insure. In other words, a large manufacturing plant having a hundred companies, taking a hundred companies to insure its property, will be visited during the course of the year by practically a hundred different inspectors representing the hundred different companies. In other words, the work will be duplicated just in that proportion; and, of course, it goes without saying that the same result could be obtained by one representative for all of those companies, and probably a better representative than the average company gets through having their separate inspector, from the fact that that one ought to be a more highly skilled man in the work of inspecting than the average of the hundred. Now, that has proven itself in the branch of the business which I mentioned, whereby the companies have formed an association for insuring preferred business of the country, the so-called mill constructed risks with automatic sprinklers, following almost identically the method of the New England mill mutuals. They there employ one man, representing all the companies which form this association, to do their inspecting; with the result of very greatly reduced expenses of making those inspections, also, the corresponding result of having much better inspections than they got through the ordinary channels.

Q. What is you experience with the average inspector which the average company puts in the field; is he an experienced man, usually? A. I would hardly like to say the average. I would say there are too many companies who put men of but limited experience at this very work which I mentioned of inspecting, and it often results in very conflicting ideas to the property owner and some times it is not only amusing, but very annoying.

Q. Bringing the matter down to the concrete; have you any concrete example in your mind, where this variety of inspection

leads to? A. Yes, I have an extreme case in mind, where a man was visited by one of these inspectors. His boiler arrangements were criticized, about this way: The boiler not having a very large clearance between the dome of the boiler and the ceiling of the boiler house, he was told by one inspector the joists above the boiler should be protected by sheet iron or tin. And after putting the sheet iron or tin in that position, a reasonable time, a month or so elapsed and another man came along, and told him, that was a good idea, but he would have to lower the sheeting an inch or two to give air space, or room for air circulation. That was done, and a short time after a third inspector arrived on the ground, and told him that it was all wrong, that the iron or tin shouldn't be there at all; tear it down, and whitewash it; that was the best thing to do. Those things, of course, are inevitable when you have a hundred inspectors to look over the same property, the annoyance, and they are a very excessive expense to the company, which could get as good inspection for much less expense.

Q. Do you ever come in contact with the inspectors from the National Board of Fire Underwriters? A. No.

Q. Do they operate there on your behalf? A. No.

Q. Does your local board of fire underwriters in Milwaukee have an inspection bureau? A. We have on the higher improved risks, all are sprinkler risks. We maintain a fire patrol in Milwaukee. No, it isn't the fire patrol. We have a special man on our board, yes, we have a special expert, who makes inspections on the sprinkler risks.

Q. But only on that business? A. Only on that class of risks.

Q. Then I understand your statement to be that each company in that field, have inspectors who go around independently of each other? A. Outside of this sprinkler business, the highly improved business.

Q. Now, what other thoughts have you upon the subject of saving of expenses by combination? A. Well, I don't know that I have any other pertinent thoughts beyond the fact I feel if those things could be brought to a combination of the company.

Q. You mention something —— A. And the companies' inspection, and the company's adjustment show that they have

done to a certain limited degree, the companies have a bureau, at least there are bureaus of adjustment, adjustment bureaus in various parts of the country which the companies use with great economy effected over the old method of having a representative from each company represented on each loss.

Q. If that combination idea were put into effect, to get at a saving of expense, it would do away largely with the special agents, wouldn't it? A. You would do away with a number of them, because it would reduce the duties of the special agent to such a degree that a lesser number could cover a larger territory. If the special agent was relieved of the inspection of risks in their multiplicity of numbers, also relieved of the duties of adjusting losses, of course, the remaining time would enable one man to cover a large territory in rounding up smaller agents, keeping them tuned up in activity, and instructed, educated — the small agent needs considerable education from time to time in order to properly conduct the business.

Q. Do you believe the companies are actually in earnest in their endeavors to lead in this reduction in fire waste? A. Well, I believe of late years the companies have been quite active in pointing out where improvements might be made to save fire waste.

Q. Do you ever remember having received instructions from the special agents of any of the companies, that your duty as an agent to the insured should be to go around to them and point out places where they could reduce their rates? A. I certainly have not.

Q. Did they ever talk about it in such a way as to lead you to suppose that was what you ought to do? A. Never.

Q. You heard the Chairman ask the question yesterday of a witness as to whether that actually happened very often of agents, that they volunteered the information? A. I was rather surprised at the Chairman's remark, because my own experience for the last ten years with agents, is that in very large and increasing numbers, I would almost include every live agent in a reasonably busy community to-day, is most alert; without waiting for any advice or any suggestion from anyone, in telling his customers what they may do to reduce their rates. In fact, that has become a

matter of keen competition in my territory. The agent who is not alive to that fact, is a dead one, and loses his business.

Q. Are those matters, matters that are naturally brought up and discussed at meetings of your National Association? A. Yes, they are.

Q. You have a fire marshal law in operation in Wisconsin, have you not? A. Yes.

Q. How do you find that that affects conditions in that State? A. Well, I must say I am not experienced. It has been in operation three or four years now, and I have heard of some cases where it is thought it did some good; but it has not produced as much of an effect as I expected; that is, an apparent effect; it may have produced a very much larger effect than we are aware of. It may have saved many an intentional loss, because with that as a safeguard, a man might hesitate, knowing he is going to be brought up before a court of inquiry, he might hesitate very long before he would have an intentional fire.

Q. Do you know whether that law is actively in force, and if after every fire there is an inquest? A. I don't think after every fire, I don't so understand it.

Q. It is only on complaint? A. I imagine so, or where there is any particular evidence to warrant it.

Q. Is Milwaukee an excepted city? A. It is.

Q. What rate of commissions prevail there? A. 15 to 45 per cent.

Q. 15 to 45 per cent? A. Yes.

Q. What is the 45 per cent commission for? A. For dwellings, with some companies, but that is not the average. I have no company in my office that pays me over thirty. No, I have one that pays me 35. That is very extreme, and there are only two companies that pay as high as 45. 35 is almost without exception the limit; but there are some that pay 40, and I am told, 45.

Q. Are you in a position to take a union company or a non-union company? A. Yes, in an excepted city there are no restrictions in regard to that.

By Judge Bruce:

Q. Have you in mind, Mr. Tapping, anything which the Legislature of the State could do, in order to relieve the owners of

property, which are known as preferred risks, from this inequitable burden that is laid upon them in paying commissions to the agent, as you have stated from 30 per cent, to in extreme cases, 45 per cent? A. If I felt sure that with all the ramifications of politics it could be done as a business proposition, why I would feel that it should be done.

Q. There is no doubt in your mind, is there, but what the owners of property are bearing more than their proportionate share of premium? A. No question.

Q. And the very fact that such exorbitant — I presume I may use that term — commissions are paid for that business, is indicative of that, is it not? A. I think so.

Q. Now, you have had a large experience in this subject, the Committee and its counsel have had but limited experience, have you anything that you could suggest to the Committee that could be done as remedial legislation in order to have that burden borne more equitably? A. I confess that thinking it over, as I have a great deal of the time, I always shrink from suggesting any legislative enactment, or legislation, when I come right down to the point. I would like to see, from any source, if it could be done, something that would push the companies into such action, I believe they should and could take if they would.

Q. Don't you feel that where a State, such as New York, allows compact, and that the companies have combined, so that in this territory, at least, the Metropolitan territory, they absolutely control the market for insurance, and fix the rates, and in the suburban districts practically control, and in the State, as the evidence shows here, controls more than three-fourths of the business; don't you think the State, or government, which permits such a compact, should at the same time require or insist upon supervision from some governmental source as to rates? A. Well, it is a hard question to answer. As I say, I waxed hot and cold on the subject. Sometimes I feel, yes they should, and sometimes I feel they should not.

Q. Well, speaking of it theoretically now? A. Theoretically without doubt, they are.

Q. Now, practically, if there was such a right of appeal, right of regulation, could not the power or the authority which regulates

any such injustice that might exist between a householder and the owner of a more hazardous risk, be regulated? A. It could, theoretically, without doubt, but practically it brings up a whole lot of possibilities which are not as apparent to the layman's mind as they are to the experienced insurance man. In the first place, we know as a rule politics do not always give us in public service the men who are best adapted to sit in judgment on the matters over which they preside.

Q. Well, stopping there, if I may be permitted to interrupt you, the men whom the companies have seleceed for the purpose of making these rates intelligibly, are not competent judges of what would impose an inequitable burden such as you refer to. A. They do not impose it; the companies impose it. It is not the man that lacks the experience or the intelligence; he knows what the rate should be.

Q. Take, for instance, in this Metropolitan district, the rates are made of course by the Fire Insurance Exchange and by a committee of the Exchange. Now, whether it is the committee acting *en masse,* or whether it is the committee in any event, the men who finally do the act evidently are not competent to make an equitable rate, are they, at least, they do not make it? A. I have never been of the opinion that the rates in the congested districts in any cities in this country that I know anything about are at all too high.

Q. Let us pass further to the suburban district then? A. Whenever you get the rating risks, why, the commission goes, at the minimum commission paid, so that there is room for either better judgment or more intelligence or more honesty or fairness to be applied.

Q. But you seem to doubt the possibility of the people either through the executive or by direct vote selecting men on account of the condition in which politics is who would deal with the subject or who would be competent to deal with it in a just and equitable manner, and the only thought I had in mind was that he could not be much worse than the men who are dealing with it now? A. I think he could; suppose for instance he rated what I think is an apparent injustice in reducing the so-called preferred rates; there he would be doing in my opinion a very good

thing; but suppose at the same time that the best judgment that he had and the best intelligence he could bring to bear on the subject should reduce the rates in the congested district, it might result in a very inequitable condition; that could be very easily and very quickly done.

Q. In that case he would right one wrong and create another one? A. Yes, sir.

Q. And in the present case they have righted one wrong —— A. I want to say that while on the so-called preferred risks the rates are too high, the burden is divided into so many infinitesimally small units that it does not hurt the individual in any such degree as would happen in the case you speak of.

Q. Do you know what the experience of the companies have been in that respect in State which attempt by law to regulate or supervise rates? A. That has been of such recent date that I do not believe that the time has arrived yet when any adequate judgment could be based on that. As Mr. Markham stated yesterday, it is in a state of process, and opinions vary. Some tell us it is going to work out all right, even including some companies, going to be a very good thing; but I would say that the majority of the companies are of the opinion that it is not going to work out properly.

By Chairman MERRITT:

Q. The ideal regulator of rates should be authorized and competent to raise them as well as lower them, shouldn't he? A. Surely he should.

Q. I think that is sound; but I do not have in mind any case where any regulating power of government is permitted to increase the rate. In this State the Public Service Law permits the commission to reduce a rate but not to increase it. A. If that would attach itself to any State regulation then it would be the strongest argument against it that you could possibly bring up.

Q. Then, why not increase it from a rate already fixed by the State, which amounts to the same thing practically —— A. You cannot make insurance rates stationary at any point, and have them equitably adjusted, because they are bound to vary from time to time, they must go up and down.

Q. I called attention to that simply because Judge Bruce and you in your discussion of it had discussed it apparently from the standpoint of always reducing the rate? A. I am not a believer that that is the only way the rates should be adjusted.

Q. That is not right theoretically? A. No; it should not be done.

By Senator Wagner:

Q. What occasion would there ever be for increasing the rates; the rate is never changed during the life of the policy, is it? A. Always, when the hazard changes.

Q. That means an absolutely new insurance, doesn't it? A. No. If you cover the property to-day at the rate of one per cent and the hazard changes sufficiently to warrant an increase to 1¼ or 1½ per cent more, you have to pay it immediately during the life of your policy. In fact, if you do not give notice of the change of hazard to the company your insurance is null and void.

By Judge Bruce:

Q. What I had in mind was this, if the companies in the first instance fixed the rate, and the power was given to some governmental agency to regulate it, there would be no occasion for increasing the rate, the companies having fixed it in the first instance it would be at a fair figure for them? A. Take the case I have just cited, suppose they fixed it at one per cent; suppose within three months there was a new hazard, increasing the risk by change of occupation or something so that it was worth two per cent instead of one per cent.

Q. They could advance the rate; the only right the insured would have would be to appeal to this court of review, if they having fixed it in the first instance and then changed it, there would be no occasion for the reviewing power to advance the rate beyond what the company fixed, because that would be the price at which they were willing to sell the commodity.

Mr. Hurrell: That is, of course, the State would put a limit beyond which the companies could not go, which not resulting in a sufficient surplus, and a conflagration coming on, the State would

be in a position of having smashed the whole business. A. Suppose the hazard remained the same, and suppose the fire department was allowed to become insufficient, or that any of the safeguards which existed should be changed. That does happen in cities; they retrograde in their conduct of public affairs. Then without any change in the inherent hazard itself there would be an increased liability of loss to the company from things entirely outside of the risk in question. Now, I should say decidedly that any regulation of any of the insurance companies which would be in the slightest degree less elastic than they have now for raising rates just as much as lowering them, would be very injurious to the public in a very short time.

Q. The right of review of rates would not necessarily be operating? A. It would not necessarily, no, but I think the tendency would be that way; that is why I have felt against State supervision of rates, that the tendency is always against the corporation in favor of the individual to a point almost of injustice.

By Mr. HURRELL:

Q. Is there any difference in your mind between the organization which has the right to fix the rate, and so fixes it, and the organization which has a right to review it, except that of popular clamor against the corporation for fixing a higher rate? A. I do not know that I quite catch the meaning of that question.

Q. Supposing that a court of review with power to reduce a rate, suppose some specific case comes before them in which the judgment possibly the experience if it could be shown of the companies was that it tends to show that rate is equitable; now, the court of review upon reviewing the proceeding says it is not equitable and reduces it. Now, that act is just as significant as though that court of review said originally this rate shall be what they finally reduce it to. What is the difference between a rate making body originally making rates and one that has the power to cut them down, as to principal? A. The difference would be this, to my mind, that it would leave the rate making machinery where it is now and only call for consideration those cases where there was considered to be an abuse. It would be along the lines of the work of the Interstate Commerce Commission. Of course the

rates are not established by them, by the railroad, but they are fixed.

Q. It is largely a matter of convenience in doing business, that would require the court to reduce the rate in case some particular rate in its judgment was too much. A. (No answer.)

By Chairman MERRITT:

Q. We have in this State a Board of Arbitration which is supposed and does in fact intervene in labor difficulties, and is authorized on its own motion to investigate such things as strikes, labor troubles for one sort and another, and they have no power to enforce any order, but it is believed that the activities of the Commissioner of Labor and the board have operated to a great degree in preventing disastrous business troubles of that sort, not always in preventing them, but very frequently. It has been suggested that it might be a good thing to direct companies to file their schedules and all changes, and then give the Superintendent of Insurance or the Insurance Department power to call upon them for any explanations they desire as to such changes, if there was anything on connection with the matter that was striking at all, and also to give the department the right to hear complaints, and not going to the extent of permitting an order to issue fixing a different or other rate, but that as a tentative proposition perhaps that would operate if it were undertaken in such a way as to give a much greater degree of publicity, and force the companies really to adopt some plan by which reasonable explanations could be made of rates and changes, and getting a good deal of the mystery and confusion out of the business, which is not entirely confined, I think, to the public mind; I think a good many insurance men seem to be more or less in the dark as to how the thing really operates; it is a complicated technical proposition, in itself apparently. What would you think about such a suggestion as that? A. I would think that might be satisfactory. I would not like to see any State regulation for this reason, that the minute you go into regulation including rates it could only be done equitably to the public irrespective of the companies in my opinion, provided such a body were continuously in office, along the lines of the Interstate Commerce Commission, and give their

lives up to studying the question so that they would become quite equally intelligent with those engaged in the business. Now, it is a more difficult problem for a committee of laymen to decide the rate or justice of an insurance rate than it would be to have an intelligent opinion in a labor dispute, because one is more a matter of general public opinion than the other. Every man is more or less able, has more or less intelligent views on the question of labor troubles, but not one man in a hundred who would be so intelligent in that matter would know anything about an insurance rate, or would be just or unjust. For instance, such statements as have been made here to-day and yesterday in regard to large advances in rates on their face do not prove conclusively that the advance is wrong, not on their face; they appear to, but they do not necessarily prove it. There may be many reasons and there are usually given to justify those advances. I find in my own experience as local agent that in cases quite as extreme as you had here to-day that the insured overlooks every fact as a rule in that regard but the one prominent fact to him that his rate has been largely increased. You may find it in the fact, if his occupancy has not changed, that there is a new exposure that he has not said anything to you about, that has come into the neighborhood, there may be half a dozen things that could change it; so I feel that any committee or any commission which have the right of review or with any right of changing a rate should be a permanent one under civil service rules permanently in office, who would become equally intelligent with business men. It is an interesting question.

Q. It has always seemed to me that one of the most important things a municipality or the State can do in regard to this subject, if it be intended to have a pretty thorough investigation of conditions, of all property as to the fire risk, that it is no more serious an undertaking than the assessment of property for the purpose of taxation? A. That is a thing I have thought of sometimes. For instance, most cities, I believe, maintain an inspection of boilers, which they consider an unusual hazard. Whether you do I am not sure; they do in Chicago I know, they have a city inspection department; these inspections should be along the line of one man, an expert making inspections; I don't know just how that might work out.

By Senator WAGNER:

Q. What good would all that supervision be if there is no power to change the rate? A. I am not sure it would be any good; that is why I hesitated to say it would be a good thing to do at all. It does not always follow that because things are not being conducted in just the way you think they ought to be that a change from one point of view to another would improve them, and that is why I say I am very reluctant to give my opinion that it would be a good thing to have State supervision.

By Chairman MERRITT:

Q. If you could provide for a method of appeal in all these things you could get substantial justice in the end. The difference between the victims of poor legal practice and poor medical practice is very striking; one man has the right to appeal, and the other fellow is dead? A. It would depend in my mind on how intelligent the board of appeal was constituted, how much intelligence there was on the subject in hand; while they might do you or me a great deal of injustice, they might do some other man at some other time more injustice, because as was said yesterday all through the whole testimony, the whole thing is a tax where many pay for the misfortune of the few.

Chairman MERRITT: If it were not for the seriousness of the expense of testing out every question in difference, I think most people in this State would rather have almost any question determined in the courts than anywhere else; whether they be questions of expert knowledge or otherwise. It is the general feeling, and it is the fact too that fairer decisions are rendered with less prejudice by the judges in the courts of this State than by any other tribunals in the State. Everybody wants to get there if they have got a real controversy. Of course it is rather expensive and takes some time? A. (Continuing.) If the court undertook to pass on the sufficiency of a rate the court would immediately call in expert raters to base the opinion of the court upon in that regard. Therefore it comes back, as I say, to the same thing, if you appoint a commission that are not experts in the art of making insurance rates you have not the judicial set of men which you need for deciding that point.

By Mr. HURRELL:

Q. On the question of commissions, I want to ask one more question. It has been stated here that one result of the reduction of the rate of commission paid to agents would be to drive out small companies from the field, and to prevent the organization of new companies; what do you think about that? A. I do not think that is at all conclusive, and I would cite in opposition to that, the Commonwealth Insurance Company which was organized in New York city twenty odd years ago, which company was organized with a capital of half a million dollars, not a penny of it paid in surplus, which is a most remarkable story for an insurance company, and which conducted a successful business from that day to this. It has changed in its methods somewhat; it has become more extensive since it was owned by the North British, they have owned it for two or three years, but prior to that time the company was continued with almost none of these preferred risks; they did not attempt to get any percentage at all of preferred business; they went right into the congested districts exclusively almost in the large cities in this country and got their entire business there, and the records will show that it was a successful company during its entire career. I do not think there is any more difficulty or would be, without the preferred rates being maintained, for a small company to be launched and successfully conducted than there would be in launching any business enterprise to-day in the country. I think the great trouble why a number of small companies fail is due to improper management, and the further fact that the element of gambling, which is always present in any fire insurance company more than any other so-called legitimate business, brings about a set of promoters about on a par with promoters of mining schemes. Many and many of those companies, which are started small companies and go to the wall within one to five years after they start, are gotten up almost as loosely as many mining company schemes and would not fail if they had good and proper management.

Q. What would be the effect out West if this State should limit its companies on this commission proposition to paying a flat rate, say of fifteen per cent; now they are operating all over the country and they are operating in competition with other fire in-

surance companies of other States, and if they were so limited, what would be the practical effect on the New York companies in the Western field? A. I don't know that I quite understand what you mean by that.

Q. Here is what I mean: You say you have rates of commission in your office of from fifteen to thirty-five per cent? A. Yes.

Q. There are commissions paid in your town of forty-five per cent? A. Yes.

Q. Suppose New York companies, by the New York laws, were permitted to pay not exceeding fifteen per cent commission on any class of business —— A. Where, in this State or anywhere?

Q. Yes, to limit the companies, no matter whether they did business in this State or out, companies which this State could control; now, how would that affect the companies in the Western field, do you think? A. I think it would give an advantage immediately to the companies that were not New York companies, and if they could continue to pay higher commissions than the New York companies they would get a lion's share of the business.

By Judge Bruce:

Q. Presuming the law regulated the commissions to be paid up on risks written in New York State? A. It would have the same effect only in a lesser degree, unless you could control the foreign company doing business in New York State — that would include, would it not, the foreign companies doing business in New York State, of course?

By Mr. Hurrell:

Q. Yes. A. If that would include the companies doing business in New York State then they would be on a parity with all companies.

Q. It might be useful in furnishing an example of what could be accomplished? A. It would be very useful, because New York State and Massachusetts have been looked upon, I think, up to the present time as the States to follow the example of throughout the country. My State of Wisconsin is rapidly verging to the front, and we are going to be the model State there soon.

A. W. NEALE, called as a witness, being duly sworn, testified as follows:

By Mr. HURRELL:

Q. Mr. Neale, what is your business? A. Fire insurance.

Q. In the agency branch? A. Yes, sir.

Q. Where do you do business? A. In Cleveland.

Q. Do you represent New York companies? A. Yes, sir.

Q. How long have you been in that business? A. Twenty years.

Q. Are you an officer of the National Association of Local Agents? A. Yes, sir.

Q. What office do you now hold? A. President.

Q. And have you served in any other capacity in that organization? A. Yes, sir.

Q. What other office have you held? A. I have been chairman of the executive committee, and from time to time on several other committees.

Q. How long has this organization been in existence? A. Fourteen years.

Q. Under what conditions do you conduct the agency business in Ohio as to the making of rates? A. I have nothing to do with the making of rates.

Q. What is the answer? A. I say, I have nothing to do with the making of rates.

Q. You do business in the city of Cleveland? A. Yes, sir.

Q. What body there or what man makes the rates for the city of Cleveland? A. The Cleveland Inspection Bureau.

Q. What is that institution? A. That is a bureau in charge of one man at the head which makes inspections and has expert inspectors for different classes of business, and these men bring the reports of risks into the office and take the schedules that are used by the bureau and figure out the rate on different classes of property.

Q. And how does the inspection bureau get its rates to the companies or to the agents? A. They publish the rates on practically every risk of any importance, say aside from dwellings and small stores, the rates are published on each individual risk, and

those risks are furnished to all companies and agents who are subscribers to the bureau.

Q. You say they publish the schedule? A. They publish the individual rates that are made by schedules which they have, and which they use.

Q. You have a cabinet system in Cleveland the same as they have here? A. Yes.

Q. And as this rating bureau changes the rates on different risks they send the cards around? A. Yes, sir.

Q. Do you have a class of men known as brokers in Cleveland? A. We do not.

Q. All the business is conducted there by agents? A. Agents and their solicitors.

Q. And the solicitor is a man who represents the party that he does business with, the insured? A. The solicitor must be a representative of the company, he must be licensed by the company, but he is employed by the agent.

By Judge BRUCE:

Q. He binds the insurer, does he? A. He generally has the power of binding risks, if he is licensed, as he should be.

Q. Is there an anti-compact law in Ohio? A. There is.

Q. How long has it been on the statute book? A. It has been on ever since I have been in the business; I don't know how long before.

Q. How long has this rating bureau, as you have described, been in operation? A. About ten years.

Q. Is there a local board of underwriters in Cleveland? A. Yes.

Q. Do you belong to it? A. Yes.

Q. Do you have any agreement in reference to the subject of the rates on various risks? A. No, sir.

Q. Then how does it work out as a practical matter, does each agency and each company do what it wants to in the matter of fixing a rate on various properties? A. They can, but there is not a great deal of variation on risks between agents; they usually ask the published rate.

Q. How is that maintained, by a common feeling among the

underwriters that a common rate ought to be observed as a matter of discipline in the business? A. Yes, sir, as a general proposition we believe that the rates published by the bureau are equitable.

By Judge BRUCE:

Q. Are those rates insisted upon and maintained, or do insurance agents bid under them? A. Sometimes an agent here and there will bid under a rate, but not usually.

By Mr. HURRELL:

Q. It is what you may call a gentleman's understanding that those rates should be observed? A. Well, I don't know just what a gentleman's understanding is, but I know the theory with me and others is as we have talked it over that it would be foolish for me to go out and cut the rate of somebody else's business and take it away, because we would start a rate fight there, subsequently we do not do it. We used to have an agreement up to about five or six years ago, it was part of our constitution and by-laws that we would maintain the tariff rate, but some of our companies thought there might be some risk in having such an agreement and asked us to abrogate it.

Q. And it was taken out then? A. Sometime ago, five or six years ago we did away with any agreement altogether.

Q. So that as a matter of self-interest and as a matter of right practice in the business, the rate that comes from the bureau is what is generally observed in your city? A. Yes.

Q. So that there exists there a combination if by combination is meant a common rate? A. If that is what you call a combination; I don't call that a combination myself, but the rates are usually observed for the reasons that I stated, as a matter of common sense between the agents.

Q. And the public is in about the same condition that they are here? A. Just about.

Q. I do not remember that you stated how this bureau was supported? Do the companies subscribe to it? A. They sell their rates and surveys. They make surveys with the risks, noting hazards and conditions, they sell those to the companies.

Q. And do you know anything about the operation of the rating bureau as to how a rate is arrived at? A. They have schedules for rating mercantiles and special hazards that are used as a basis.

Q. What schedules do they use, and how? A. What is known as the analytical schedule, the one that is in use now is the old Dean schedule.

Q. Have you any knowledge of whether in making up any rates in the city of Cleveland, Ohio, that the experience of the companies doing business in the field is asked for and used? A. What do you mean, their losses?

Q. Yes, their loss experience, yes, in various companies? A. Why, in our own office we generally get our own experience from the companies. We have our own in Cleveland, and I generally get the State of Ohio, for instance, which I am interested in in particular with my companies.

Q. Do you know whether the rating bureau uses those results in assisting them to arrive at the rates which they sell the companies? A. I do not think the bureau does; I think they use the schedule as furnished to them and apply it.

Q. That is, they go by the Dean schedule, or the other publishers that get up the analytical schedule? A. Yes.

Q. Does the local agent have any influence with that local bureau on rate making? A. None whatever; I am speaking generally. Of course if we had reason to think that a class of property was rated too high we would take it up with the rating bureau and see whether we could not get concessions.

Q. That is, in about the way you would take it up with the rate bureau if it was a bureau that the companies owned? A. Yes.

Q. And what is the contract or the status between this rate bureau and a company; what is the contract; is it all left with the rating bureau to determine whether or not a rate should be advanced or decreased? A. I think it is.

Q. And that makes the test of whether the bureau is any good to the companies or not largely a question of whether the rates which they put forth are adequate for the companies to do business under? A. Yes, sir. I think the companies as a rule are satisfied that the Dean schedule is the best schedule that has been promulgated, and they are generally satisfied with its results.

Q. Now, is Cleveland an accepted city? A. Yes, sir.

Q. What rate of commissions prevail there, please? A. I could only tell you that from hearsay outside of my own contracts, and I understand the rates of commission paid are from twenty to thirty-five per cent.

Q. Do you regard the commission payments of companies as a necessary expense as at present paid, at present rates? A. I think that it would be better for the business if they did not pay such high commissions on say preferred business.

Q. On preferred business? A. Yes, sir.

Q. What is the highest amount that you know of, Mr. Neale, in this country, the largest amount of commissions paid on preferred business? A. I have been informed at as high as fifty per cent commission is paid in some places.

Q. Do you know of any place where that rate is supposed to prevail? A. I have been told that it is paid in the city of Washington.

Q. Do you think the preferred business is an evil of the business, or do you think the preferred business as the companies now look at it is all right? A. I think that the rates on preferred business are somewhat too high; I do not think the public is complaining about it because the premiums are generally small to each man, and consequently I do not think the public makes much complaint about it, but the fact that it is a little too high is what results in the payment of these commissions on this class.

Q. Do you think that if we could get at the evil in one of two ways, either by reducing the rates, which would automatically bring down the commission, or reduce the commission, which would automatically bring down the rate, do you think that would remedy the evil? A. I do not think a reduction in commissions would be permanent, because if there is the profit there the commissions would naturally come up again.

Q. Have you any suggestions to make as to how that evil might be cured by the companies or by State action? A. I think a little publicity is the best thing.

Q. Then the one way to get publicity would be to require the companies to file their combined experience, would it not, on the preferred class of business? A. That is a matter I had not given

any thought, as to whether that would be a good thing to require the companies to do that, but I think the fact that it is brought out for instance in a meeting like this that those rates are too high, if you let the public know it I think they will do the rest. If people generally knew that the rates on dwellings were too high it would not take them long to find fault with it; the trouble is they don't know it.

Q. You think even though the individual payment might be very small to the individual, he would be willing to have it cut in two if he could? A. If he knew it, yes. I would not undertake to say that all preferred rates should be cut in two. I do not know just how — I do not have access to the loss ratio. The commission payments are pretty fair evidence to me and other agents that those rates must be a little too high.

Q. The publicity on the business would be gained absolutely if all companies with some State department, take this State department, were required to file their experiences in that preferred loss, those experiences, their experience of losses as compared with their premiums? A. If that information could be brought out in any way to the public I think it would have that effect.

Q. So that assuming this is an evil, the existence of so-called preferred business and high commissions, you think you could stir up the demand of the public by having recorded the results of the losses in that class as compared to the premiums? A. I think in any way it was done it would have that effect. I am not advocating that you by law compel companies to do that. I do not believe in too much legislation. Is there any way that you could suggest outside of compulsory filing of such information that would lead to the remedying of these conditions? A. I think the insurance commissioners of late have become aware of this preferred business proposition, and are commencing to agitate it. I think if the insurance commissioners of the States who now have an association kept up their agitation a little bit it would not take long, and I think the time is coming soon when such agitation will be had.

Q. That is you think the more you talk about it and the more you let the companies know that the more men are knowing of these inequalities, that the sooner the companies will have to com-

mence to clean house? A. I think so. I think the commissioners are working towards that end to-day by the associations that they have.

Q. Of course the commissioners are about as this Committee is; they are looking at the problem and wondering what ought to be done. Of course they find that this condition has existed for a long time and they have not done anything? A. Simply because as I say nobody has taken any interest in it, but premiums are small, and the man does not know it.

By Mr. HURRELL:

Q. Would you reduce premiums on that class of business, as Mr. Tapping suggested, to the same flat rate that you pay on all other classes? A. I do not think I would be prepared to say that; no. I think it is more trouble to get the business, and I think it is worth a little more to handle business at retail than it is at wholesale.

Q. It is a fact, is it not, that there are many large risks on which you only get not to exceed five per cent commission for placing it? A. That is only true of what we call the surplus line business, on very large risks, where we have to go outside of the State or country to get the protection.

Q. What is your opinion, Mr. Neale, as to the New York situation? You are here frequently, and do some business here, do you not? A. I do some business here; not a great deal.

Q. Do you believe if the Fire Insurance Exchange were abolished, immediately in its place would appear an independent rater to give the same rates to the companies? A. I cannot think of any other way, but I cannot say that I have an opinion as to what would be done.

Q. Well, do you know of any community — in your experience, do you know of any community where that anti-compact law has been passed, that following the anti-compact law there has been some other form of getting at a common rate which each company used in dealing with the public? A. The independent inspection bureau is the only way I can recall it has been handled.

Q. That is the way it is usually done in the various communi-

ties, where the companies have met the anti-compact law? A. That is the only way I can recall.

Q. And that has resulted in Cleveland, where you do bsuiness now, as you have described? A. In Cleveland it has worked as satisfactory to us as the other way.

Q. Have you noticed any difference in the rate as between the old conditions and the new? A. No, sir.

Q. Does the State of Ohio license agents? A. Yes, sir.

Q. Agents of domestic as well as foreign companies? A. Yes, sir.

Q. What fee? A. Well, the agents of domestic companies, I believe, do not have to be licensed; foreign companies to the State do.

Q. What fees does Ohio charge? A. Two dollars.

Q. Are there any qualifications demanded of the insurance agent? A. No, sir.

Q. What is your opinion on that subject? Do you think a State should require standard qualifications of the various men it licenses? A. I think some qualifications might be a good thing.

Q. Well, how far would you go with it? A. Oh, I think a man should be responsible, and a man of good character and good fair business judgment. The insurance business is an important business, and the man who has the power to bind the companies for large amounts, should have fair judgment and be a man of good standing.

Q. Well, ought not that to be left to the companies themselves to choose that kind of man? A. They think so.

Q. Well, there is a great deal of agitation in various parts of the country about the State standards of qualifications of agents; it has been advocated here. A. The companies, as a rule, believe in their agents, and, as a rule, will not appoint a man that they do not consider will make a good agent. We sometimes think that they appoint too many of them.

Q. Have you the valued policy law in Ohio? A. Yes, sir.

Q. How do you find in practice it works? A. Why, I presume sometimes advantage is taken of it. I do not think very often it is. I think it is a bad law, though any such legislation is vicious.

Q. Do you know whether it is having any effect upon the rates

in the State of Ohio, one way or the other? A. I could not answer that definitely, but there is no doubt in my mind but what it has a tendency to increase the rates, because the rate has got to cover the losses, and if you put a premium such as that a man getting more than he is entitled to, it is bound to affect the rate in the long run, in my opinion.

Q. As a matter of fact, is it handled in your State about the way it is handled in the other States, namely, by court construction they put on it, that there must be total destruction of the building, even down to and including the foundation? A. They tinkered with the law a little after it was first enacted, so that the foundations are not legally a part of the building in our State, so as to get around that.

Q. Do you have the co-insurance clause in operation in your State? A. Yes, sir.

Q. How does your rate bureau treat the co-insurance clause? Does it make different rates for different percentages of co-insurance? A. Yes, sir.

Q. How diversified are those rates? How do you split it up? A. Why, for instance, on mercantile buildings, the seventy per cent clause is ten per cent reduction; eighty per cent is fifteen per cent; ninety per cent is twenty per cent.

Q. Do you use all three classes frequently? A. Yes, sir.

Q. Do you have an adjustment bureau in the city of Cleveland which companies use? A. Yes, sir.

Q. You heard Mr. Tapping's testimony on that subject; that the savings companies could effect in that direction; what has your experience been in that line? A. I think that is why the companies organized the bureau.

Q. Do you find they used that adjustment bureau there almost entirely? A. I think there are about forty or fifty companies that uses it as much as possible. That is, they won't send their special representative there if they can just as well handle it by the bureau.

Q. And how many companies are there that do not use this adjustment bureau? A. Well, there are over one hundred companies represented in Cleveland. There are about, I understand, forty or fifty out and out subscribers to it, who got together and

organized it, and I understand other companies use it, and that they pay a proper fee to the bureau for the service.

Q. Well, would you say that that criticism is one which the companies will gradually meet now by the gradual use of these rating bureaus? A. I think they do it as a matter of economy.

Q. What do you find as to the inspections of each of the companies? Do they still inspect with their own inspectors or do they use a bureau? A. Well, that is another bureau; the inspection bureau.

Q. Well, now, you spoke of a local inspection bureau? A. A rating bureau is also an inspection bureau.

Q. Well, now, the rating bureau has its inspectors who go out and make the surveys? A. Yes, sir.

Q. Upon which the rate bureau bases somewhat its rate? A. Well, it is all one bureau. It is a rating and inspection bureau, and their rates are based, of course, on their reports of inspectors.

Q. Now, in addition to that, does the local board of underwriters, or whatever your name is there,— does it maintain any organized inspection bureau? A. No, sir.

Q. Now, in addition to that, do the companies send their inspectors into Cleveland to look up and keep track of the individual risks? A. Why, to a large extent. Some of them do. There are some that do not. Some of the companies, smaller companies, do not have many field men, and I think rely quite largely on the inspection bureaus' inspections. They receive copies of them regularly.

Q. Do you agree with Mr. Tapping that a large saving in expense could be had if the companies generally used one bureau in making their inspections? A. I think the bureau is being used, and it is, to a certain extent, cutting off the expense. I think the companies do not inspect as much as they used to before we had the bureau in such good working order. I doubt whether all companies would refrain from inspecting just because there was a bureau. You take a company with a very large business. They feel as though they want their own trained men to make reports, especially where they have large amounts at hazard, and no matter whether it is bureau or not, I think very large companies with large businesses, would always do that.

Q. That is, you think that their financial interests in the property will always keep them from trusting some common machine? A. I think so. Of course, that is largely a matter of judgment. For instance, in Cleveland, the bureau was known as exceedingly efficient. The companies would probably pay less attention in Cleveland, but in another place where the burenau was not efficient they would pay more attention. It is a business proposition that has to be decided by the management.

Q. What is the work of the national association of local agents of which you are president? What does it aim to do? A. Why, their platform of principles is to abrogate bad practices, and stand for good practices in fire underwriting.

Q. Now, one of these practices is the observing of the same rate in the local fields that the other brother agents use? A. Well, we never discuss rates in our association. It would be illegal in some States, and our members are from all over the country, and consequently we do not discuss rates. There is no advantage to do it.

Q. What I am getting at is what influence this association has on the business of fire insurance over this country? A. Why, we think that the influence is, in the main, for good. For instance, we have discussed this preferred business proposition that you brought out to-day and such things as that, which from time to time, come to our notice, we discuss. We discuss the valued policy law, for instance. We think it is a bad thing. Anything of interest to our members of that kind, or general nature we discuss.

Q. Would you say it is the concensus of opinion of your association on that one specific subject, that they are against the valued policy law? A. I do not think there is any agent, scarcely, but what would be against it, for any company.

By Judge BRUCE:

Q. You have it in the State of Ohio, have you? A. Yes, sir.

Q. How long has it been in operation? A. As I say, it has been in operation from before the time I went into business. I do not know just how long.

Q. What has been the experience of your State with reference to it? A. Well, as I say, we can't tell,—you mean as to rate?

Q. Yes. A. We can't tell definitely. There is no way to get at statistics, but we are satisfied that where there is such a law, it must increase the rate, because the rate has to cover the losses on the average. If rates get too low, they have to be increased, and we believe that is one thing that makes the loss ratio too high; to pay a man more than he is entitled to on his property.

Q. You think the rates in the State of Ohio are larger than they are in the States, the adjoining States, say Pennsylvania or Indiana? A. I do not understand.

Q. Do you think that the rates in your State, and cities, are higher than they are in the adjoining States, which do not have a valued policy law? A. Why, I think in the States around us there is not a great deal of difference, but, of course, there are many things that enter into the rate besides the valued policy law.

Q. That is true, but it would be a fair assumption, would it not, that if the rates are any higher in Pennsylvania or Indiana, than they are in Ohio, or no higher in Ohio than they are in Pennsylvania or Indiana, that the valued policy law had not, to any appreciable extent, affected rates? A. I think the State of Ohio, as I understand the Dean schedule, is penalized a trifle in the schedule for the valued policy law.

Q. How much? A. I do not know, and I cannot say positively that is true, but in talking with Mr. Dean, I think all such things are recognized in his schedule. I am not an expert on schedules, however, and I do not know that. That is a matter you could ascertain.

Q. Do you think the valued policy law has increased the moral hazard in your State? A. A little. I think there are men who have taken advantage of it.

Q. In what respect? A. By allowing their property to burn, or burning it.

Q. Is that based upon experience or upon theory? A. Well, that is based upon the stories of field men, from time to time, as to their experiences.

By Mr. HURRELL:

Q. You are speaking as an agent, whose financial interest it would be to put as large an amount of insurance on property as a man wanted? A. I think that dishonest men do do that; take advantage of that law, and hope to profit by it, and I think sometimes a man who is not naturally dishonest, has his property pretty well insured, and does not care if it burns up. He thinks if it is a total loss out in the country, he can realize on it.

Q. Does your association have anything to do with the subject of commissions? A. We discuss them, but we cannot control them in any way.

Q. You do not seek to control, or exert influence on, the companies as a body? A. No, sir. Our actual dealings in the matter of commission, is each agent with his own company.

Q. Do you ever have occasion to advocate or oppose legislation as a party? A. We do; yes.

Q. What would the attitude of your association be upon the subject of State regulation of rates? A. We would be opposed to that.

Q. You would be opposed to it? A. Yes, sir.

Q. On what grounds? A. Why, we do not believe that inexperienced men would be capable of determining rates; men outside of the business. Men in the business perhaps go short sometimes, and we do not see how men outside of the business could improve on those who have spent their lives in the business.

Q. Would you be opposed to such legislation as was suggested here; that a board might be put in operation to review a rate, but not to originate it? A. I would be opposed to any legal supervision over the matter of rates.

By Judge BRUCE:

Q. Well, don't you feel that, in justice to the assured, if the State permits compact, it ought to insist upon rgular supervision? A. I do not think so. As I said a while ago, the matter of publicity will eventually cure any discrimination. I think, as a rule, rates are equitable. The only rates I have in mind that I think are perhaps a trifle high are these preferred rates.

By Chairman MERRITT:

Q. We had a debate up in the school district in my county, on the question of which was the worst, trusts or trade unions; I would like to ask you which you think would be the worst, regulation or a law preventing compact? A. I think regulation would be the worst; I never thought of it before, but offhand I should say so, that would be my guess.

Chairman MERRITT: Judge, you just brought up a point when you mentioned the fact that if we permitted compact, how could we escape the other horn of the dilemma.

The WITNESS: Well, I do not think that, as a rule, the rates are at all exorbitant. I think the rates are fairly equitable. I think competition regulates that to a large extent on big business. There is not so much competition on the preferred business, but on the other there is. There are mutuals and there are trade companies. For instance, the laundry men have now a company that writes laundries only; and different branches of business have these mutual companies. There are trade companies that take their own risk. There is considerable competition, and I do not think the assured are absolutely held up, or tied to our stock companies.

Judge BRUCE: You are speaking now of the city of Cleveland?

Chairman MERRITT: Was it testified to, Mr. Hurrell, anywhere as to whether the rate-making committees take into consideration the competition of companies for business?

Mr. HURRELL: I think not, Mr. Chairman.

By Chairman MERRITT:

Q. Did you ever participate as to rate making —— A. (Interrupting.) No, sir; not for a good many years.

Q. Would you be likely to take that into consideration in fixing final rates; natural competition among the companies? A. I do not think so, in specific cases. I think if it were developed that a whole class, for instance, were high, and business was going away, they naturally would look into the matter and see what the trouble was, and I think if it could be shown that a class was too high, there might be some modification of the basis in the schedule.

Q. It would work out in that way. The competition for a particular class of business would finally be reflected in a reduction of the rate by the rate-making board? A. Why, I think that would be natural; if you were losing any business.

Q. That would be one of the elements that would produce it? A. Well, if you were losing a large amount of business of a certain class, you naturally would want to inquire as to why you were losing it.

By Judge BRUCE:

Q. Take in the Metropolitan district here in New York where every stock company writing risks in this territory is a member of the Exchange, and there are practically no mutuals, or no other source of market for insurance, except those companies, which practically eliminates all competition; where the public are absolutely dependent upon the Fire Insurance Exchange in the making of rates; and in our suburban territory where they write about, or over ninety per cent of the insurance; and throughout the entire State over seventy-five per cent. Competition then would play a very important part in our State? A. Well, of course, I do not know just what ——

Chairman MERRITT: (Interrupting.) I was not referring to the competition of the outside companies. I was speaking of the tendency to compete among the stock companies themselves for desirable lines or classifications.

Mr. HURRELL: You meant that kind of competition when you asked your question of me?

Chairman MERRITT: Yes.

Mr. HURRELL: As to whether there had been any testimony on the record as to that?

Chairman MERRITT: Yes; as to whether they gave that consideration in making their rate.

Mr. HURRELL: I think two or three witnesses have referred to the fact, or to their view of rate bureaus, that the desire of companies in the bureaus to get good business, leads the bureaus to reduce the rates as far as it is safe to do it. That is one view that has been put forth.

Chairman MERRITT: Of course, the suggestion the Judge makes will also come into play; as to what will happen to the stock companies by reason of the outside people; they will have to take that into consideration.

Judge BRUCE: Where there is such competition?

Chairman MERRITT: Yes.

Judge BRUCE: It does not exist here in the Metropolitan district, and very slight competition in the suburban districts.

By Chairman MERRITT:

Q. What would you regard as an ideal relation between the insurance business as a whole and the State? That is a pretty broad question, but what I have in mind is, as an insurance man what would you like to have the State do in making the business recognize on the highest plan that you conceive that it should occupy? That leaves it broad, too. A. That is such an awful broad question that I do not believe I could answer it.

Q. Well, it is a broad question, and I asked Mr. Markham that question, and he wanted to know if I wanted him to draw the report of the committee, which was a very proper question in return, but —— A. (Interrupting.) The only thing before us, Mr. Chairman, at the present time is this matter of qualification of agents. That is the only thing of a legislative nature that we are thinking of backing at all, and that we have not got down to just where we are ready to deal with it, but we have a committee out on that proposition now. I think there are too many agents in the business, and it occurs to us that perhaps the best way to restrict them would be to have some qualification, and perhaps have the agent make his own application to the State for a license, instead of having a company just send down to the Insurance Commissioner, and license Tom, Dick and Harry, without any expense, except two dollars, and without knowing who the man is, and I think that if the agent applied for the license himself, and had to pay a small fee to cover proper expenses, that would perhaps — he would have a little greater accountability, perhaps, to the Insurance Department, by making his application personally; perhaps being recommended by five taxpayers, we will say, for il-

lustration, or having any character certificate, or something of that kind, so that agents cannot be just simply manufactured indiscriminately. I believe, as a rule, our companies try to get good men, and I think perhaps there is a good fair percentage now in the business who ought not to be in. A man who fails turns to the insurance business because to start in does not require any capital, and I think the business is overloaded. There are too many men in the business. So that is about the only kind of legislation I could think of at the present time that we would care to recommend.

By Judge BRUCE:

Q. And is that in the interest of the assured; the public? A. I think so. I think that commissions have been pushed up by more and more men coming into the business. And I think it would be reflected in the rates if commissions were reduced, and not so many men going into the business. Of course, we talk that way. It is argued that there are too many men in every line of business. We frequently have that thrown up to us when we make the statement, but it seems as though the insurance men were more burdened than perhaps other lines of business. Perhaps because it does not require capital to start into it.

By Chairman MERRITT:

Q. The regulation of the rates of commissions in life insurance seems to have reduced the number of agents in this State. At any rate, it has reduced the amount of importunity that the people are subject to for taking out life insurance? A. That is what I have understood.

Q. If we limited the rates in this State, it might have the same effect, or assist in producing the same effect that you have in mind in regard to the license; the question is how much you can reduce the fair cost of insurance due to conflagration loss of one kind or another; fire losses do not seem to be very clearly defined anywhere, because that seems to be such a shifting element of the premium? A. I do not think that is the proper way to get at it. I think you are commencing at the wrong end if you have any

idea of legislating on commissions. As an economic proposition, if a class of business is too high, the commissions are going to increase on that business until it gets down to about where the companies, for instance, could not pay more. I think the proper way to do would be to cut these preferred rates; get these preferred rates reduced, and the commissions would come down with them. As I said before, I think the proper way to do is to agitate it; a little publicity.

Q. There are so many people, you know, who every time they do not like anything, say there ought to be a law. A. That is the trouble; having too many laws.

Q. The wayfaring man is with us all the time in one shape or another. I remember a former justice of the Supreme Court who used to say that it was true that the wayfaring man or the fool need not worry, but the trouble was there were so many wayfaring men that the courts were all the time in trouble trying to straighten out their difficulties, and it is pretty hard to answer the public demand for something, even, for it sounds as though it were misunderstanding or prejudice, and they all rise up and say there ought to be a law. It is evident that something should be done by somebody. Maybe the companies could straighten this whole thing out. They ought to know how better than anybody else. A. Well, the people feel that insurance is a tax. It has been called a tax, and it is a kind of tax, and a man always kicks on taxes, and there is always a class of people that will kick on rates, no matter what their rates are. But you take the broad-gauged man in Cleveland, and I know it is true in other cities, if they are satisfied that they are not paying more than their competitors, they are satisfied to pay the rate. But if they are discriminated against, of course they make complaint, and if a man in Chicago has to pay a higher rate than his competitor in New York, he would make a complaint, but when they are satisfied that the rates are fairly uniform as to their competitors, they are pretty well satisfied — the broad-gauged fellows, to-day.

By Judge Bruce:

Q. Well, the owner of preferred risks then, has a good basis for being dissatisfied and complaining? A. I think so.

By Mr. HURRELL:

Q. What do you do in Cleveland to reduce the fire waste? What are the companies doing? A. We follow everything that is developing from time to time, along that line. For instance, if we put in high pressure service down town, we get a good fire department, and our bureau advocates, our inspection bureau, advocates every known good device for reducing the fire hazard.

Q. Do you have a fire marshal law there ? A. We do.

Q. In the operation of that law is there an inquest after every fire? A. No, sir. Only on complaint, or unless the department should hear of a case,— they naturally like to make a good showing, and if they hear of a case or it is brought to their attention, they give it prompt attention.

Q. Don't you think that is one of the necessary elements of every fire loss; that every fire that occurs should be investigated and a report made thereon? A. It has not been done in this country, and they have so many more fires in this country than in other countries, that I should think it would be expensive. In Europe, I understand, that is commonly done, but they do not have one fire in ten there that we do.

By Judge BRUCE:

Q. Perhaps that is the reason, one of them, that the fire is investigated and a report made on it? A. I do not think it has near so much influence as their building laws. Their building laws,— their building codes there are very good, and that is where I think we are deficient in this country,— in our building laws.

By Mr. HURRELL:

Q. You heard Mr. Markham yesterday discussing the subject of contingent commissions. What is your opinion on that plan of payment by the companies to their agents for business done? A. I do not have any important contracts myself, but it has always seemed to me as though it were the best way to pay agents from the standpoint of the company. As an agent I would rather have a bigger flat commission, and know that I have earned it right along as I go along, but from the standpoint of the com-

pany it would seem to me, and perhaps the public, it would seem to me as though that were a proper way to pay agents. I think, however, a company should have its choice.

Q. Well, of course, it would connect up the agent with the company in a different way than they are now connected? A. Well, agents are paid both ways now. I am paid both ways in my office.

Q. That is, you have some contingent contracts? A. Yes, sir.

Q. What are the disadvantages of that contract? A. Of contingent?

Q. Yes. A. Well, the only one I have ever heard was the one brought out yesterday that the agent who had heavy losses in a contingent paying company the beginning of the year, and could not hope to get a contingent on that company's businesse, he might naturally put his business in other companies that had not had a severe loss that year. But I do not take much stock in that argument myself, because while I think that might be true with some particular agent, most agents would not do that way, and if they did, the company having thousands of agents all over the country, would reap the benefits of those agents who were not fixed that way in some other particular agency. It has always seemed to me as though a little profit sharing on the part of the agent would tend to make him a better underwriter, because he is financially interested in the result.

By Chairman Merritt:

Q. Does the State of Ohio provide for the payment of any tax on gross commissions for the benefit of fire departments or anything of that sort in your State? A. No, sir.

Q. There never has been any such provision? A. No, sir.

By Mr. Hurrell:

Q. Has there ever in your experience, been in your locality, a rate war between companies? A. Not in our city.

Q. Not in twenty years? A. No, sir.

Q. Was there ever much complaint in Cleveland against the rate bureau? A. Not very much. I think the business public, as a whole, are pretty well satisfied with our rates. When they

first started in, there was a little, but now they have got to understand it, and a man can go to the bureau and see the make-up of his rate. As a general rule, they are pretty well satisfied. Of course, here and there you will find a man who is unreasonable.

Q. What is the rule of your rate bureau as to the showing of a schedule on any building to the public? A. Any one can see his own schedule, and probably can see the schedule of any one else if he asks to see it, and any agent interested in the risk can see a copy of the schedule.

By Chairman MERRITT:

Q. Is there any objection to these being public records, outside of the cost and annoyance of doing that additional business? A. Well, I should say in a place the size of Cleveland there would be no objection. I think it would be a good idea to have it public. I believe in publicity. I think people would be satisfied if they could see their own rates and other people's rates.

By Mr. HURRELL:

Q. You heard this gentleman who testified here this morning about the increase in his rate from one to four? A. Yes.

Q. Do you think you would be satisfied just to see how the companies put that rate together? A. Well, there are always some men that would not be satisfied. Of course, I do not know anything about his conditions. I know there was a rate war here some time ago, and it occurred to me possibly that low rate he mentioned at the beginning, might have been during that time, although I do not know anything about it. I know I should say from the way he described his building, that he had not anything to kick about; he has an anomalous risk; foreigners and several different kinds of factories, and auctioneer stores on the bottom floor. I thought he was getting a pretty fair rate.

Q. Would it be as good as he could expect in Cleveland? A. Yes, sir.

By Senator WAGNER:

Q. Are you permitted to insert the co-insurance clause in policies by law in Illinois? A. At the present time there is no law on

co-insurance. It was prohibited some years ago, but the law was repealed.

By Judge Bruce:

Q. You write uniformly with the co-insurance clause? A. We do; it is used almost altogether, for the reason there is a lower rate with it. For rates to be scientific they must be based on co-insurance. A flat rate is an unscientific thing.

Q. Why should it be arbitrarily fixed at eighty per cent; to be scientific shouldn't a man be given a rate based on the amount of insurance he carried, ten per cent, twenty per cent, thirty per cent, forty per cent, fifty per cent, sixty per cent, seventy per cent, eighty per cent or even one hundred per cent? A. That is practically as I stated a while ago; we allow ten per cent for a seventy per cent clause, fifteen per cent for an eighty per cent clause, and twenty per cent for a ninety per cent clause. We do not make any wider variations than that, because there is no demand for it. They do in some places, I believe, come down to fifty and sixty per cent.

Q. The co-insurance clause then is scientific if it is rated on the amount of insurance which a man carries; fixing it at eighty per cent, wouldn't it seem to be unscientific? A. I see no reason personally why there should not be more or less of leeway, permitting a man to carry a smaller percentage, and allow him to pay higher rates.

Q. To be scientific it should be that way, should it not, theoretically? A. Theoretically, that is true; yes, sir.

Judge Bruce: That is all.

Henry H. Putnam, called and sworn as a witness, testified as follows:

Examination by Mr. Hurrell:

Q. Mr. Putnam, what is your business? A. I am secretary of the National Association of Local Fire Insurance Agents.

Q. How long have you held that office? A. Six years.

Q. Where do you reside? A. In Boston.

Q. You have heard Mr. Neale testify as to the general purposes of your association? A. Yes, sir.

Q. I wish you would state in detail the committees of the association, and the meetings it has? A. The organization?

Q. You may state its organization? A. How much do you want me to go into detail? I would rather answer questions.

Q. All right. When was it organized? A. Fourteen years ago.

Q. And its members come from all over the United States? A. All over the United States, yes, sir.

Q. What is its main purpose? A. It is comprised exclusively of the local fire insurance men, in contradistinction to the companies' employes, officers or employes.

Q. Do special agents belong to this? A. They do not, no, sir. And the organization is comprised of various State associations at the present time, thirty-six in number.

Q. That is, the members of the State associations also belong to this national association? A. The national association is comprised of the State organization; the State organization sends delegates to the national convention, who are delegated to, and represent the organizations. The State associations may hold annual or semi-annual meetings, as the case may be, and the national association, likewise, at various points, the same as numerous other national associations identified with other branches of business and professions. The organization has nothing whatever to do with the question of rates and with commissions which are dealt with exclusively by the companies, except a more or less moral influence, as occasion may require. They deal with the professional questions in the business, as it affects the interest of the local men, such as the protection of his territorial rights, and what we call his expiration rights, that is, control of the business which he places.

Q. Right there, will you explain that a little bit more in detail? A. Why, the local agent is the worker in the business. He is the man on the firing line and he represents a number of companies and produces business.

Q. Under a contract? A. Under a contract as agent. He produces business which he places in these various companies, accord-

ing to his judgment. The almost invariable rule being that the property owner patronizes an agent, and not a company; trusting to the integrity of the agent to place him in responsible and reliable companies; and the consequence is that a business built up that way is the business of the agent; it becomes a business asset to him, a saleable property, which he can convey to another, or which he can leave to his family. But sometimes that moral right is disregarded, and the organization endeavors to protect the interests of the agent in that regard.

Q. Well, that right, or whatever it may be, is that set forth in the ordinary agency contract between the agent and the company? A. Sometimes, not always.

Q. The contract is usually a contract to represent the company on one side, and a contract of the company, on the other, to pay a commission for the business produced? A. Yes.

Q. Do you know of any agency contracts, wherein these rights, as you have called them, were considered at all? A. I can't say I do, no, sir.

Q. So your association, on that branch, aims to secure to each individual local agent, that which is not defined in the contract between himself and the company? A. We try to build up a common rule of business practice, based on justice and fair dealing as between the companies and the agents.

Q. What proportion of the local agents in the company is represented in the association membership? A. A minority, so far as members are concerned.

Q. How about the business? A. I should say the majority of the business written was done by the members of the association. Of course, there are a vast number of agents who only devote a part of their time to the business, whose interest, perhaps, is not very much, in building up the professional side of the calling. He would not be identified with our association, unless, perchance, they get into trouble on these questions, then sometimes they come to us.

Q. Now, what committee does the national association work through? A. We have the ordinary office and executive committee; a grievance committee, committee on legislation, committee on uniform blanks, the object of which is to secure from the

company an agreement to use uniform blanks in the agency business, so that an agent could have one blank for all the companies he represents rather than a variety, thus increasing the expense of conducting his business. Then they have a committee on agency qualifications, which is a new committee, dealing with one of the subjects that has come before your committee.

Q. You have a committee on qualifications now? A. We have a special committee on that. We have what we call a joint conference committee, to which is referred subjects that should be considered with the companies.

Q. And you take up questions in dispute between the agents and the companies? A. Between the agents and companies, not necessarily questions in dispute, but questions of common interest.

Q. Do you recall, in that connection, any particular case you have taken up with the companies? A. That have been taken up?

Q. Yes? A. Why, most all those questions that we consider come up in conference with the companies. We always endeavor to cure the evils in the business in that way.

Q. I was asking for any specific illustration of where the local agents were affected, and the question was, if you had any specific illustration? A. It would be hard to pick out anything. Why, yes. In this matter of uniform blanks I was just referring to, the result of our work has been practically an agreement upon the parts of the companies to use the blanks that the association has suggested. Thus introducing an element of uniformity and consequently economy in the business, which is very desirable from every point of view, to the companies as well as the agents. That, perhaps, is as pertinent an illustration as I could give in the way the association endeavors to promote higher professional work in this business.

Q. Has the association effected anything along the line of which you spoke a moment ago, of the territorial rights of agents? A. Yes, we have. We frequently have complaints under that head, which go to our grievance committee, and our grievance committee takes the matter up with the companies and agents concerned, endeavoring to adjust it on a peaceable basis, rather than interject what might be called a rate war into the situation.

Q. Now, can you explain that a little bit further, I am in-

terested in getting specific examples of how the agents effected, in their action as local agents, how would it come to a rate war? A. Simply the power of public opinion, and united action. It is simply a common rule that runs through everything; a hundred men working together for a common end can accomplish what one man could not.

Q. Does any specific instance occur to your mind, where the action of the association, or of its committees, have caused the companies to adopt a different course, in any matter of common activity; take the question of rates, for instance; how would a grievance develop from local agents on the question of rates, that would be taken up with the company and adjusted by your association? A. Well, supposing a company had a quarrel with the local agent, and withdraw from his office and desiring to protect what it called its business, should threaten to open a rate war in that section, cutting the heart out of the business, as it were, the agent could complain to our association and we would take the matter up with the company and endeavor to induce them to abandon their purpose to control the business of the agent in that way.

Q. That is what I am getting at. Now, that is a case, you state, where a company is going to take away an agency for some grievance between the company and that agent, and they have threatened that agent's business with a rate war? A. Yes.

Q. Then, you use the combined power and influence of this association with all the local agents throughout the country, with the company to see if you cannot come down to a matter of common agreement, and prevent that condition, in the particular field? A. Exactly. Of course, the natural disposition is there it is merely a matter between one company and an agent, it don't seem of so much concern to the company, but when that man's complaint is the complaint of an organization, why it puts the matter in a different light.

Q. Do you ever have the situation arising where a company threatens to put another agent in the field, and do you ever seek to prevent a company from putting in an agent? A. We have never sought to prevent the planting of agents in any way. We do feel that there are too many agents, and that one cause

of the excessive expense, one of the primary causes of the excessive expense in the business of fire insurance to-day is the great multiplicity of agents. The part-time men who are merely in the business for the commissions they can get, frequently planted by companies who simply wish to increase premium income, sometimes appointed, quite frequently appointed, primarily for the purpose of rebating to the policy holder on his own risk; which results, of course, in discrimination as between one property owner and another.

Q. What legislation, if any, have you ever had passed in any Legislature? A. We have favored fire marshal laws, and anti-rebate laws.

Q. Have you succeeded in getting anti-rebate laws in any States? A. Yes, in quite a number of States.

Q. What is the experience of the local agents the country over as to these anti-rebate laws in practice? A. They really haven't been enforced long enough to form any definite opinion.

Q. Does this national association intend, through its various members, to enforce the anti-rebate law, by bringing evidence to the proper authorities wherever it can? A. I think that is their intention, yes, sir.

Q. You think if a law went on the books of this State, of the anti-rebate nature, that the executive power would have the co-operation of the members of the association in this State? A. I haven't any doubt of it, sir.

Q. How many members have you in New York State? A. I can't say, offhand.

Q. Approximately? A. Perhaps over five hundred.

Q. Do you have many from New York city? A. None whatever.

Q. Why is that? A. Well, New York city is a managerial and brokerage centre, almost exclusively. There are no local agents in New York city in the same sense that a man is a local agent in other sections.

Q. That is, the situation here is altogether different from anywheres else? A. It is altogether different, yes.

Q. Do you recall any other cities where the situation as to the brokerage business is just about as appears here? A. Not exactly

the same, to a varying degree in other cities, in other large cities, like Philadelphia.

Q. Do they have the broker over there? A. They do have the broker in Philadelphia, yes, sir.

Q. And local agents, too? A. Local agents, yes.

Q. Is your association open to brokers as well as to local agents? A. No, it is comprised exclusively of local agents.

Q. That is, you would not admit a broker to membership? A. I do not think the question has ever come up, sir.

Q. Now, have you mentioned all the committees that you have that you work through? A. Why, I think so, possibly I missed one or two; there is quite a list.

Q. Your association meets about twice a year? A. We have an annual meeting once a year, and then we have what we call a mid-winter meeting, which is comprised of our officers and the members of the various committees.

Q. Were you in the business before you became secretary of this association? A. Yes, sir.

Q. What line were you in? A. I was a publisher and editor of insurance publications.

Q. I will ask you the same question that the chairman asked one of the previous witnesses: What laws, if any, would you suggest, that might tend to make conditions as nearly ideal as possible in this State? A. Well, I am very firmly of the opinion that if the State is going to license agents that they should set up some standard of qualification. What that is, I think, is a point to consider; but there should be some standard.

By Chairman Merritt:

Q. What would you suggest as a standard? A. Well, I think, a man should devote almost all his time to the business; I think he should be in it as a fire insurance man, and he should understand how to transact the business; know about contracts and forms; and he should have had considerable experience in the insurance business itself, that is, in some other office.

Q. We sometimes compel people in this State, before they are permitted to practice a good many different professions and businesses as well, to be licensed. A. Yes, sir. In the State of

Illinois I understand that a barber in order to secure a license to shave me has to go before a board of commissioners there and demonstrate in a practical way to shave a man, shampoo him, and do the various other offices incidental to that profession.

Q. We had such a law here one time. A. Moreover, I understand that man shall have been in the business six years. Now, that same barber can get into our business, simply by going up and paying a two dollar license fee, no matter how much business he has done, or what he knows about the business. It seems to me that is economically wrong, and a source of great waste and expense to the business.

Q. That means, that that man might start in to handle fire insurance, and he couldn't explain the eighty per cent co-insurance clause? A. I guess that type could hardly do it.

By Judge BRUCE:

Q. You can't carry on the insurance business by simply getting a license; he must be employed by some company to represent them? A. Yes, the company is primarily responsible for the appointment, because of their desire for increased business, and competition.

Q. And he binds the company? A. Well, yes, he can bind the company; once holds a license, he could bind the company.

By Mr. HURRELL:

Q. That barber might control a long line of barber shops that the company might want? A. Yes, or he might have his own in two or three risks, and the company would like to control it, and they appoint him an agent and give him a commission.

Q. How would this as a practical matter work out; suppose the law said every fire insurance agent should have an office; now, would that be of any practical benefit? A. Well, it might.

Q. It has been suggested that that is one of the things the law might do, that a man must have an office, and his name somewheres, advertising himself as a fire insurance agent, before he could get a license? A. It might have some effect.

Q. Have you any doubts about it? A. I don't know; because

it might be something you could get around. He might have desk room in some office.

Q. That is what I am seeking to develop? A. There are many who don't have any office, a great many.

Q. Would it embarrass them to get offices, and advertise themselves as fire insurance agents? A. Why, yes, it might be some embarrassment.

Q. Do you think that the companies are paying lots of commissions to men who would not care to advertise themselves as fire insurance agents, and yet who get business, and get the commissions? A. No, I wouldn't say that. I think that any man that is appointed as an agent is rather glad to advertise himself as such.

Q. I am thinking about what you called these part-time men. It is a general theory in life insurance, you know, that the part-time man is a bad thing. You seem to have the same idea, that a man should devote all his time to it? A. I would not say all his time, no. There are a great many cases where competent men are in other lines of business, that naturally lead them into the insurance business, who make good local agents, and are competent to represent the companies.

Q. What other qualifications might you suggest? A. Well, I don't know but that a higher license fee would accomplish, or result, in some improvement.

Q. Now, that matter has been discussed at length in your various meetings of your association, has it not? A. Yes, sir.

Q. That is, what the license fee should be? A. Yes.

Q. Was there any general opinion on what agents in your association would be willing to pay for a license fee? A. It has been quite generally discussed, but there is a great variety of opinion on that subject.

Q. What would you say was a fair average of the various opinions set forth of the amount that the State should tax local agents? A. Well, from two dollars up. I don't think I could answer that question, sir.

By Chairman Merritt:

Q. You would not expect to treat the matter as one for revenue for the purpose of getting money for general purposes?

A. No, sir, not in view of the fact of the tax that is already imposed on the insurance company, which are many, many times more than what is needed for the expenses of the office.

Q. Just enough to demonstrate good faith? A. I think, as a matter of protection to the State, to the property owner, and to the business itself.

Q. All you could expect to get at by any system of that kind would be to make it necessary for a man to demonstrate to some disinterested power, in good faith, that he wanted to engage in the business, or was engaged in the business? A. Yes.

Q. So the person who engaged in the business could be known to be the person he claimed to be? A. What you say suggests another qualification. It seems to me he ought to have a certain amount of recommendation from the different people in the town in which he resides. He ought to be able to get sufficient indorsement from people there as to his qualification for this responsible position, to satisfy the superintendent that he was all right.

Mr. HUBBELL: He would have to be an awfully poor man, if he could not get indorsement of some kind.

The WITNESS: I know that; than you ought to make it more than one.

By Judge BRUCE:

Q. These safe guards are all for the benefit of the agents and the companies, are they not? A. I think it would be a safe guard for the agent.

Q. Where does the assured come in? What interest has he in that? Why shouldn't a company, take a man selling for a company, selling mowing machines; why shouldn't a company selling insurance see that they only employ good responsible men, see that those men have an office, see that those men are men that could be trusted; why should the State step in and require any higher qualifications for a man selling insurance than a man selling mowing machines? A. Because, I don't think it is an advantage to the assured to have the companies represented by a man who is incompetent, who don't understand the policy contracts or the form that is to be used. That might result in very serious em-

barrassment to the insured in case of a fire. It would be all right in case there was no fire, but if a fire occurred, and he was improperly protected under his forms, through the incompetence, or ignorance of the agent, it seems to me it would be a very serious matter for him.

Q. Is the agent acting for him or for the company? A. The agent, as the business is now conducted, is a middleman in the truest sense of the word. He is a representative of the company, and he also treats the assured as a client, and represents his interests as well as those of the companies.

Q. That is the reason why you think that the State should insist on certain qualifications? A. That is one reason, yes, sir.

Q. Is there any other reason? A. Well, I think there is a public demand for it. The National Association of Creditmen, which is comprised of business men, of people who place, who represent the assured, have particularly pointed out in the reports made by their insurance committee before their national conventions, the conditions which I have spoken of, and which our association is interested in. And they seem to appreciate the fact that the insurance business is often discredited by the representation of incompetent agents.

Chairman MERRITT: Is it true then, that the desire for business and the competition has made the companies more careless; and that the system of appointing agents is rather broken down in that respect?

The WITNESS: I think there is no question but that the competition between the companies has caused the multiplicity of agents.

Q. Do brokers belong to your association? A. No, sir.

Q. Do solicitors? A. Solicitors?

Q. Yes. A. No, not to my knowledge, only the appointed agents of the company; they may be indirectly members. The solicitors are employed by members of our association.

Chairman MERRITT: What proportion of the total number of agents are members of your association?

The WITNESS: A minority of the total number of agents.

Chairman MERRITT: The ones that are most interested, and the most successful?

The WITNESS: Yes, the ones most interested in the business; as shown by the character of men who have been here before you on this investigation.

By Vice-Chairman BROUGH:

Q. You said there were no members of your association from New York city? A. No, sir.

Q. By that you include Richmond and Queens and Brooklyn? A. Practically, yes, Greater New York.

By Mr. HURRELL:

Q. Your point as to the lack of qualification of these agents is that an incompetent man, that is, incompetent from the point of the assured, may go to an assured, who don't know enough to go over his policy and get it right, and may give him a policy that don't bind the company at all, that the company sends out, because of some condition that the policy calls for, that an incompetent agent does not know enough to protect the insured against with a proper rider? A. Exactly, because in that case he does not fairly represent the assured or the company.

Q. The incompetence of a man sometimes saves a company from paying a loss? A. No, he does not know in that case how to properly bring the parties together to perfect the contract.

Mr. HURRELL: That is all.

Chairman MERRITT: The Committee will stand adjourned until 2 o'clock.

Recess until 2 P. M.

AFTER RECESS.

Vice-Chairman Brough: The Committee will be in order.

Lyman M. Drake, called as a witness, being duly sworn, testified as follows:

By Mr. Hurrell:

Q. Mr. Drake, what is your business? A. I am a fire insurance agent.

Q. Located at what point? A. Chicago.

Q. How long have you been in the business? A. Twenty-seven years.

Q. As a local agent? A. Well, growing up to be one.

Q. Do you belong to any local boards of underwriters in Chicago? A. Yes, I am a member of the Chicago Board of Underwriters.

Q. What does that board do? A. They maintain the fire insurance patrol and make schedule rates.

Q. Do you represent New York companies in Chicago? A. We do.

Q. You also belong to the national association of local agents? A. I do.

Q. Do you hold any office in that body? A. No.

Q. You say this board do the making of the rates? A. Yes.

Q. In Chicago? A. Yes.

Q. Who are qualified to be members of that board? A. We have different classes of membership. The agents are primarily in control; they have the voting membership.

Q. And how is the board supported? A. By an assessment on the companies of the premiums of the Chicago business.

Q. And does the board promulgate rates for all the risks in Chicago? A. It does, everything except public property.

Q. And how far does its jurisdiction extend? A. The charter of the Chicago Board of Underwriters permits them to make rates in the entire State of Illinois; they, however, have assumed control only of Cook county.

Q. Is it an incorporated body? A. It is.

Q. And was it incorporated, among other things, to make rates? A. Yes; it is in the incorporation papers.

Q. Does Illinois have an anti-compact law? A. There is an anti-trust law that has been construed, I believe, as preventing combinations of insurance companies. I am not clear on the legal points, but there is an anti-trust law in the State.

Q. How many other rating institutions are there in Chicago? A. No other rating institutions.

Q. And how many others in Cook county? A. No others in Cook county.

Q. And how are the rates made throughout the rest of the State where your board does not have jurisdiction? A. They are purchased from an individual, I understand now; of course our business is confined to Cook county and we do very little outside of Cook county, but I know that there is a system ——

Q. Of independent rating? A. Of independent rating, yes.

Q. Does your board have any connection with any of the independent raters? A. It does not.

Q. Do you know whether the rates, as promulgated by your body, are substantially the same rates upon the same kinds of property as the independent raters promulgate? A. We are working that way as rapidly as possible.

Q. That is, to get a uniform rate throughout the State? A. Yes.

Q. Are all the companies that are in the city in your board? A. They are not; there are several companies outside.

Q. What percentage of the companies doing business in Chicago are represented on your board? A. The companies or the business?

Q. The companies first, approximately? A. There is approximately — well, of stock fire insurance companies there are only two outside of the board.

Q. And how many do business in the city? A. Practically 200.

Q. And have you a system of mutuals in the State of Illinois? A. We have.

Q. How many mutual companies do you suppose there are there that are not in your board? A. In the whole State, or doing business in Chicago?

Q. In Chicago. A. We have several Illinois mutual companies, not many, however, that do business in Chicago. There are a number of the Eastern mutuals that are admitted to do business in the State.

Q. What provision does your constitution or your charter contain for the penalizing of companies that do not follow the rates put forth by your body? A. I do not think there is anything. The constitution and by-laws, of course, are separate, as in any body, and what the constitution covers and what the by-laws cover I don't know.

Q. Will you please then, in answer to the question, describe in general terms the operation of this board of fire underwriters that make and put forth the rate? A. They establish schedules insuring different classes of property, and apply those schedules to the different risks, and publish the rates arrived at.

Q. Have you ever been a member of the rating committee? A. The rating is entirely in the hands of the officers of the board.

Q. And do you know how they arrive at the schedule or the base rate from which the schedule starts? A. That is bound to be rather an arbitrary figure. We have arrived at it in adopting new scales by comparing the scales in use in different parts of the country, and using the best judgment that we had in our power as to what would be fair.

Q. I have heard it stated, whether upon the stand or not I am not sure, at the present time that in Chicago it was the custom of the companies that belong to the rating organization to contribute to that organization the experience of each as to losses and premiums. Do you know whether that is true or not? A. The committee that have charge, the committee and the officers, get all the light that they can from all the different sources as to what should be a proper rate, what should be a proper charge, in other words.

Q. Well, was there at any time ever a uniform system of reporting followed by the companies, that is, did they contribute their figures to the rate-making machinery? A. Nothing complete.

Q. Well, tell us what there was besides this general throwing of light on the subject? A. Well, for instance, the fire insurance

patrol is supported by the board. They report every loss, and they follow it up and find out how much was paid on the building and how much on the contents, and, for instance, to cover one point, they find out the relative amount that has been paid for a number of years by the companies for building and for contents to establish what the relative rate should be.

Q. That is, of a particular property that burned? A. Of all of the property that is burned in the city.

Q. Is that reported to your board in such a way that the figures, the results, are available when the rate comes to be made or increased or lessened? A. The fire insurance patrol keep track of those things day by day.

Q. Are they a part of your board? A. They are a part of our board.

Q. Does the fire patrol committee or management co-operate with the rate-making committee or management? A. As far as giving them any light on the subject of a fair rate, all of the statistics of the board, of course, belong to the board and are for the use of the board in all of its departments.

Q. You don't know really though whether the people that make the rate use the figures that the fire patrol presents? A. I know that they do.

Q. Do you believe it would be helpful if every company reported its experience on losses and the amount of premium income on the various classes of property that the insurance was placed upon? A. It would if they could get like conditions, but the complexity of the situation and the different rates charged in different parts of the country, and different things that influence the fire loss, such as the efficiency of the fire department — there are so many complex things that come in that I do not know whether that would be of any value or not. It would be some guide.

Q. Do I understand that the work of the fire patrol management that it does in that regard is merely a classification of the losses of the city of Chicago? A. That is all; that is all they have any definite information on.

Q. Do they aim to keep the losses, separate them in definite and well-defined classes? A. No; the only figures that would be

of any avail — of course, some figures could be obtained, I expect, by going over the reports of the loss of different classes, but what I had reference to particularly was the relative — what relative rate should be on the building, on the contents of the building. We try to arrive at that, by definite figures extending over a great many years as to what the settlements had been on losses.

Q. After a rate is adopted by the management of the board, how does the board get the individual companies operating in the city to adhere to the published rate? A. Without a copy of the charter and by-laws I would not like to answer that definitely just exactly what the provision is. I don't know what the workings of it are. The general provisions are that this charter, that was granted us by the State, give us the right to make rates, and give us the right to assess any company doing business in the city of Chicago for the maintenance of this patrol. We have that positive right, and any company that comes there, whether they are a member of our board or not, we can assess them for that service, because it is a service in the interest of the board.

Q. That is, as to the fire patrol. I am speaking more of the rate-making proposition. You cannot assess them for that portion of the expenses of your board that comes into the making of rates, can you? A. We think it is fair to separate that and not charge companies for that part of our work; however, it is one board, and it would not be fair to assess a company that was not a member of our board for our inspection service and work of that kind.

Q. Then as a practical matter you assess all the companies in Chicago, even those two that do not belong to the board, you assess them under the act you spoke of, or charter? A. Yes.

Q. To help support the fire patrol? A. Yes.

Q. But you do not assess those companies for that portion of your expense that is used in the rate-making bureau? A. That is correct.

Q. You said you could not tell what the provision of the charter was but you knew how it worked out? A. Yes, sir.

Q. Now, what I am getting at is, how does the board enforce members, how does the board enforce its rates on those members? A. If they do not maintain our rates we would insist on their

getting out of the board. They could not take advantage of our rates and surveys, all the information that we have, unless they were members and maintained those rates.

Q. Is that the only consideration that they have, the use of your surveys, rates, etc.? A. I don't know as I understand that.

Q. Is that all the advantage that applies to them, or is that all they would lose if they got out? A. No. The members of the board would not do business with them. They would lose the business of the members of the board; that is, we would not do general business with them. We would do business where it was necessary to protect an assured where he could get insurance among our own members.

Q. I don't know whether you are aware of the workings of the fire insurance exchange here, but if a broker does not observe the rules of the Exchange after he signed both pledges, there is not a company in New York will take business from him; he is deprived of his livelihood; that is the reason why the broker observes the rules of the Exchange here, because he could not do business if he didn't. Now, take a local agent in Chicago, suppose he gets out of the board, can he do business with any of the companies that are represented in the board, or would they refuse to do business with him? A. We would not refuse to do business with him, no, but we would refuse to pay him any commission.

Q. That is the answer then, that is the way you enforce the rules? A. Yes.

Q. So that in that particular the Chicago board works about the way the New York board works? A. Practically the same, I should say.

Q. What is the situation in Chicago on the subject of rates, do you have any public complaint there? A. Why, public complaint, I don't know what you mean. A man always kicks at his rate; he don't want to pay as much as we ask him. He always wants to pay less. Anybody buying anything tries to buy it as cheap as he can.

Q. How do you answer the man there when he comes in and objects to his rate; do you tell him how the rate is made up? A. We tell him we have made that rate as fair as we know how, and that we need that much money in order to collect sufficient money to pay losses.

Q. And, of course, you have not got the figures to show him the country over why his particular rate is as it is? A. We would go into that with a man, yes; frequently we have such questions up. Just this last week I had a case of that kind. A customer made a complaint we were charging him more than his competitors were paying at other points.

Q. What was his answer to that? A. What was my answer, you mean?

Q. Yes. A. My answer was that I would immediately take it up with the committee and try and have it equalized.

Q. That is, have his rate reduced? A. No, I would have no control over the other rates, but I would have some influence in having rates made equal.

Q. Do you claim in common with all other people that follow the schedule that that equalizes rates as between different individuals? A. I claim this: that it is merely a measure; it is just as necessary to fire insurance to have some sort of a schedule to measure rates as a yardstick is to the drygoods merchant. A schedule is merely a method of measuring rates.

Q. You spoke of an anti-trust law that was in operation in Chicago? A. Well, there is an anti-trust law in Illinois, but there are a lot of legal questions there that I do not feel competent to talk upon. I know that our Chicago board charter is a charter from the body that permits these very things, and was granted to us many years before the anti-trust law was put on the books.

Q. And, as a matter of fact, under the practical operation of it, this board controls the rates, and those are the only rates the public can get on fire insurance to any large amount? A. They could deal with companies not members of our board, or by mutual or Lloyds insurance, and they do.

Q. How many mutuals would you say there were doing business in the city of Chicago? A. Directly or indirectly, practically all the mutuals in the country. We have competition with the New England mutuals.

Q. You are speaking of factory mutuals? A. Yes.

Q. Are they in the city of Chicago to any extent? A. Yes.

Q. And the individual underwriters represented by Mr. Waters? A. Yes.

Q. How much effect do the presence of these companies have upon the rates of the stock companies in the board? A. The mutual companies, of course, we have taken advantage of their experience, and we have found that they could write sprinklered risks — the most definite information we could get on the cost of insuring sprinklered risks was from the knowledge that we gained, and from that we have been able, from time to time, to reduce the rates on sprinklered risks.

By Judge BRUCE:

Q. Do you meet their rate? A. No, we do not attempt to meet their rate.

Q. You approximate it? A. We approximate it in a way; we consider that to be relieved of the liability is worth something. We know that the stock companies pay taxes and various other expenses that the mutual companies do not go to. We have to have at least that much more, and there are various other things; there is a question of personal liability.

Q. How much is your rate above theirs? A. Probably on average twice as high.

Q. Who writes the most of those risks in your territory? A. The stock companies or the mutual companies, you mean?

Q. Yes. A. The stock companies.

Q. You said if a man did not wish to accede to your rates he could go outside; out of 200 companies you control 198, do you? A. Yes, but we do not control these individual underwriters, and they have a very large carrying capacity.

Q. I mean as far as stock companies are concerned? A. As far as stock companies are concerned.

Q. Out of the 200 there are 198 members in your board? A. Approximately, yes, sir.

Q. Are there any miscellaneous mutuals there doing a general business? A. There are a few miscellaneous mutuals that occasionally come in; the druggists' mutual or something of that sort. The retail merchants' mutual or something or other.

Q. Those are mutuals that write special risks? A. Yes, sir.

Q. Are there any general miscellaneous mutuals like they have in Massachusetts and other New England States that write gen-

eral mercantile risks? A. You mean from other States or from the State of Illinois?

Q. Both. A. We have one or two mutual companies in the city of Chicago that have been running for many years, one that writes dwelling houses only; and there were some mutuals organized in Indianapolis that occasionally wrote a risk in Chicago; whether or not they are admitted in the State I would not be able to say.

Q. Would you say the members of your board write ninety-five per cent of all the risks in Cook county? A. I would say that they write more than that.

Q. You practically control the field? A. I don't know about controlling it; we practically write the business. The field is open for anybody to come in if they wish.

Q. If they can get it? A. Well, they have got the same chance of getting it as we have. We have been there the longest. That is all.

By Mr. Hurrell:

Q. Chicago is an excepted city, is it, in the matter of commissions? A. I believe so.

Q. What are the prevailing rate of commissions to agents? A. They are as different as any other compensations can be. I could not say there was a prevailing rate.

Q. Is there no common agreement between the companies as to what rate of commission they shall pay in the city of Chicago? A. To agents, no.

Q. Each company decides that for itself? A. Yes, sir.

Q. What is the highest commission you have known to be paid in Chicago on any class of business? A. Why, I have known of a company paying as high as forty per cent for a particular class of business.

Q. That would be the dwelling house class? A. Yes.

Q. And what is the ordinary rate for the dwelling house class? A. Thirty per cent to agents.

Q. And the lowest class being on the sprinklered business? A. Lowest class of commissions?

Q. Lowest class of commissions, yes. A. Yes, the lowest com-

mission is paid on the sprinklered business, although I cannot tell about that. Some companies make distinctions.

Q. What is your opinion, Mr. Drake, as an expert insurance agent, on the question of whether the companies are paying too high a rate of premium the country over, and so charge higher rates than they ought to to the insured? A. Under the existing conditions, they are not, in my opinion, paying too much.

Q. Under existing conditions? A. Yes.

Q. What do you mean by that? A. The unlimited number of agents that are scattered throughout the country.

Q. That is, you think that there are so many agents that the companies employing them to do the business, they have to pay more to each man? A. I do think so.

Q. Than they would have to if they limited the number somehow? A. Yes.

Q. Well, do you suppose the companies could get all the business they are now getting from a smaller number of men? A. I could not say that exactly, no, sir; no. I have no doubt that there is a small percentage of people that insure under the present conditions who would not insure under restricted conditions.

Q. That is, insure under the pressure of the agent? A. Yes.

Q. Well, what do you think would remedy this general condition? Where would the remedy be applied? A law preventing the companies from having more than one agent in a place? A. I think that would help very materially.

Q. Well, would not that law work out rather inequitably applied generally? A. I cannot see where.

Q. Now, it is conceivable, is it not, that in the city of Chicago, as in the city of New York, that one company could use more than one agent? A. I certainly would not attempt to restrict the number of employes or assistants that this agent might have, but the indiscriminate paying of agents the maximum commission, necessitating the company having added supervision, is an extra and unnecessary expense on the business.

Q. What would you say the rate of commission ought to be under such conditions as you have outlined; one agent in a town or city? A. I really do not believe that I could give a very intelligent opinion on that. It is such a complex situation, and I

do not believe it is possible to have a flat rate of commission and have everybody paid for their services as they should be.

Q. Do you believe in the contingent commissions, or do you believe in the graded commissions? A. I believe in some form of contingent commissions, yes.

Q. What form? A. Well, I believe a form of contingent commission where a company would get an average of business, in other words, sufficient business to figure an average, that contingent would work all right; but in cases where there are very small agents doing a few hundred dollars a year, I think that the contingent is of no value.

Q. Well, if there were any law providing for controlling this subject of commissions, if it should provide a maximum over which the company cannot go in paying a flat commission, it could make provision for a contingent commission, the first payment under which, the flat part of it being an amount something less than the maximum, and leave that to be worked out in the individual field, could it not? A. You mean a flat amount as a maximum?

Q. Yes. A. It depends altogether upon the service that is expected of the agent. I can conceive a situation in fire insurance similar to what we have, for instance, in boiler insurance, and I think that that is the ideal situation for the country. In other words, to make the agent a factor in reducing the fire insurance loss.

Q. That is, to have the biggest part of the premuim spent in inspection rather than the payment of losses? A. That is the idea.

Q. Well, do you believe the stock companies are working towards a point where the expense item will gradually be going over to the inspection bureau rather than to the loss department? A. In some directions, yes.

Q. Well, do the stock companies go where they are not led by the individual underwriters, or by the sprinklered risk companies; mutuals of New England? A. Yes. I think that the stock companies are getting better wisdom on the matter of the times. They are getting better engineers; they are studying into the matter very deeply. The contract is becoming less of a gambling con-

tract than it was when insurance was originally started, and, I think, eventually it is going to work in that way.

Q. Did you ever have it happen to you, in your experience as an agent, that any company sent instructions to you, either by circular, or by literature of any kind, or by special agents, advising you, or urging to you, or even suggesting to you, that you should use all your endeavors to get your insured to take advantage of every credit in the schedule, in order to get their property corrected so as to be less liable to fires? A. I do not know as we got that suggestion from the companies, but it is the system that we have been following for a great many years.

Q. Now, where did that pressure come from? From the fact that you had customers out in your local field, or from the other end? A. That pressure came about at the time of the establishing of the board of underwriters, or the tariff association, whatever you wish to call it. We felt that our customers should have the benefit of everything that is in the schedule. We explained to our customers that most of these charges were, I think you call it punitive charges, extra charges. They were more than what the real hazard amounted to, and for a small expenditure, they could correct those charges; save it out of their insurance and, at the same time, be protecting their business.

Q. And do you, in your business, carefully explain to everybody that gets insurance, where the premiums amount to enough to take an interest in it, wherein they can reduce those premiums? A. We certainly do. We take great pains to do that.

Q. Will you say that attitude was quite general upon the part of local agents, or is that peculiar to Chicago? A. I cannot imagine a situation where a local agent would expect to keep his business if he didn't do it. I think that he would be, in a very short time, out of business, if he didn't see that his customers got the best that there was.

Q. Do you believe in a statutory requirement to regulate who shall engage in the business of fire insurance as an agent? A. That is rather a hard question. I believe in some manner this multiplicity of agents should be reduced. What the manner is is hard for me to say, but something should be done to raise the character of the agent, for, in my belief, the agent has more control over the fire loss of this country than any other person.

Q. Well, then, do you advocate restrictions upon the agent, with the end in view of reducing the number, or do you advocate it with the end in view of reducing the fire waste? A. I advocate it with the end in view of reducing the fire waste. The reducing of the number, however, is absolutely necessary, because the servant must be paid.

Q. And you think by decreasing the number you would probably get a better class? A. That is my idea.

Q. Which would engage in the business of reducing the fire waste? A. That is my idea exactly.

Q. Of course, if the number was less, the expense of the companies in commissions would be less, would it not, unless they were held up by the local agents? A. I would say the expense on the public would be less, not necessarily the company. As the rate went down, to my mind, if the agent performed his proper function, his rate of compensation would go up.

Q. Just explain that further, please? A. My idea is this: I had better go back to the citation of steam boiler insurance. The most prominent company doing a steam boiler insurance pays out in expenses between eighty and eighty-five per cent of what it takes in for premiums, and has on an average for the past ten years. Its losses are not over ten per cent. I believe those figures are correct. We sell a great many of those policies, and the customers freely pay us more money for that company's policies than they do for other companies, for the reason that they feel very secure; that if they have a policy in that company, they will not have a fire on account of the very superior inspections that the company makes.

Q. Now, when you speak of steam boiler insurance, don't you mean a casualty policy that provides against damage by reason of the explosion of the boiler? A. I do, but the inspection feature — that is the best illustration I can think of, of the inspection feature, and where the fire insurance agent should land, and where the fire insurance company should land, in the question of reducing the fire waste, or the fire cost, rather.

Q. Do you believe that the rates which the companies pay on so-called preferred business is too high, or do you think that a high rate of commission is at all justified in that line? A. I

think it is on that subject that the small insurer or small policyholder, is more subject to the inducements of an agent than a large insurer. That is, that it is necessary to have agents cover the whole country, and present the proposition to every little householder, and that that is going to cost more money than it is to induce the large insurer to insure, because he has to insure for the benefit of his creditors; for the benefit of his own protection, etc. He has accumulated something, and the small man has got to be induced to insure his property, and that is the reason, to my mind, why there should be a high rate of commission on that class of property.

Q. Well, do you agree that the present rate commonly paid on that property is too high, or do you think it could be lessened for the benefit of the public? A. I think that that is largely a question of localities, and the character of business. I think if a man were to go out to New York or Chicago, or any other place, and to go after the very small risks, $500 and $1,000, the laboring man, etc., that the present rate of compensation is not the least bit too high.

Q. Well, but you are one of the agents that do not agree with what was said on the stand this morning; that the rate ought to be lowered. A. Well, I have this statement: I did not hear the statement this morning, but my idea on that subject is there are qualities of preferred business, and there are classifications in that, the same as there are in anything else. With a great big apartment house, with $150,000, or $200,000 insurance, that the present rate is possibly too high, but the small man who goes after the small risk is not overpaid.

Q. Well, don't you believe that the premiums charged, the rate of premium on the ordinary preferred business in the city, with adequate fire protection, is too high all over the north? A. It is so considered, and I imagine it is probably correct that the rate is higher than necessary.

Q. And it is considered by underwriters that it is in the preferred business where all the large profits of the companies come from? A. No, I do not agree with that entirely on the preferred business of this country.

Q. I am not speaking of the preferred busines, so called in the

south, which may not be preferred business? A. Well, may be. For instance, I do not know what it is in New York. I have had in Chicago various estimates. The most accepted estimate is twenty per cent on the premiums.

Q. Required to pay a loss? A. No; is preferred. Now, that is rather a small percentage. I do not believe in New York there is twenty per cent on the business that is preferred, and it therefore cannot be a large feature.

Q. Well, it is usually looked upon in underwriting circles that the profits made in preferred business is what has helped to pay the losses in other business where the rate is very close to the hazard? A. Why, I have heard that argument. I do not know whether there is anything in it or not. I know that companies that have confined themselves entirely to preferred business — those I have in mind now have not made a success of it. They have not amounted to anything, and a company in order to get a volume of premuims has to do a general business.

Q. That was not because they could not give that company the hazardous class of business, or because they were only giving it the worst of the preferred, was it? A. I do not think so, no. I know of an experience in our particular city of the companies that went after that business altogether; that their expenses would run up so high that they did not come out so well as companies doing a general business. I have in mind, for instance, one of the companies that is not in our board, that writes practically nothing but preferred business. It is a pretty good sized company, and their receipts are about half what they would be if they were doing the general business of a company of its size.

Q. And how about their losses? A. I have no figures on their losses. We do not know what they are.

Q. Well, the reason the income is about only half what it might have been, is because they are selecting their risks with care, and only taking this particular class? That is what your statement was? A. Yes, but it would be impossible for them on their volume of business, unless their loss ratio was about, oh, very much smaller, say half of what the other companies is, to make as much money as if they were doing a general business.

Q. Well, isn't it a fact that every company in your agency

is very keen after the preferred business? A. No. I can say that it is not. That is not a fact. They are not willing to pay the expense, in other words.

Q. Well, is the situation in Chicago such that the business is divided up among preferred companies that are willing to pay, companies after preferred business, that are willing to pay a high commission, and companies that do not care for the preferred business because of the high commissions? A. To a considerable extent, that is so.

Q. So that you have got a class of companies there that are going on what is known as the hazardous risks, almost entirely? A. Well, I do not know about that. We have companies in our office that say they do not care to pay the expense of that business: that they do not think that it looks right; that they think they are subject to criticism in having their expense ratio too high, and they do not care to go after it, and they do not instruct us to go after it, and they do not pay us a rate of commission that would enable us to go after it.

By Judge BRUCE:

Q. Speaking now of preferred risks? A. Preferred risks; yes.

Q. That is on account of the high commissions the agents receive for writing it, isn't it? A. Yes, sir; the preferred business is unquestionably profitable, and it is unquestionably profitable at this high rate of expense, but at the same time, if stock companies are subject to any criticism at all on the expense ratio, it is on account of the high rate of commission they pay on preferred business.

Q. Well, here in New York, the evidence before this Committee shows, the ratio of expense to premium is about forty per cent. Don't you think that is higher than any other class of business you know of; to stand a tax rate of forty per cent of its income for expense? A. I think that that expense ratio is too high; should be reduced.

Q. It is undoubtedly enormously high; forty cents out of every dollar received paid in expense? A. I think that is too high under existing conditions, and under existing rates, for if the burning ratio, as it is sometimes called, might be reduced forty per cent, it

would not be too high. Now, you take, for instance, the figures of the New England mutuals—I think I am right on this—you will find that they pay out at least half of every dollar that they take in, for expenses, and still they furnish this insurance at a lower cost.

Q. You are now speaking of the miscellaneous mutuals? A. No, I am speaking now of what is known as the factory mutuals; associated factory mutuals.

By Vice-Chairman Brough:

Q. What method would you adopt to reduce the expense? A. In the first place, I would take off all of the taxes that are not necessary for the maintenance of supervision of the insurance company, because it is a double tax on the people. They pay the tax when they pay the premium; they pay a tax to the city and State, etc., on their property, and this is a double tax.

Q. Is that all? A. That is the first thing. The next thing I would have is a higher class of agents; agents who would take pains to reduce the loss.

By Judge Bruce:

Q. Then would you go further and have regulation of commissions by law, or at least, a maximum commission? A. I do not know whether I would or not. It is altogether a question of what service is paid for with that commission. If it is merely a question of the real estate man, or trust officer, or somebody say, well, you give him that insurance, and he takes the commission and puts it in his pocket, and that is all there is to it, why, I would say that he is overpaid if he gets one per cent.

Q. Well, if the law permits a combination of insurance companies, whether it is a compact organization like the New York board or your board, by which you perfectly control the market for that locally within the territory within which you operate, and you all pay forty-five per cent of commissions for getting the risk on my premises, or on the premises of any citizen, don't you think the State ought to step in and protect that man? A. I think it should.

Q. If it permits a combination it ought to protect the citizen

and give him a right of appeal, should it not, against an unjust imposition of tax? A. I think you are right, when it goes to such an extent as that.

Q. That must be theoretically sound? A. Yes.

By Mr. HURRELL:

Q. This situation you spoke of in Chicago where one class of companies is willing to pay an excess of commissions and gets the preferred business, and the other class that are not willing to pay such high commissions and gets the hazardous class, is very bad from an underwriting point of view, is it not? A. Yes.

Q. Because the company going on the hazardous class does not get the good business to offset the losses there to make an average? A. There should be no good business. It should all bear a proportionate part of it.

By Judge BRUCE:

Q. It should be equitable? A. Yes.

By Mr. HURRELL:

Q. Well, the fact that companies are permitted to bid up against one another for the preferred business, creates just that condition, doesn't it, where the average of the losses are not spread equally over the capital that is in the business? A. Yes. Well, I can imagine a situation where a company made a situation of insuring dwelling houses, and doing, for instance, a business similar to the industrial life insurance companies. Now, they all get higher rates than the regular life insurance companies, because their agents deal with a certain class of policy holders; and there is a class in fire insurance that where high commissions have to be paid to induce the people to carry insurance, they should carry insurance for their own good; a condition where they have got to be coaxed into it, you have got to pay agents to do that, and, therefore, there should be some way of going into that subject. I do not believe in the flat commission. At the same time, I do not know as I believe in graded commissions. It is a very hard problem. I do not think you ought to get the same rate of

commission in insuring a large plant carrying a million dollars insurance, that you should in insuring a small man carrying five hundred dollars insurance, because you are either going to be overpaid in one, or underpaid in the other.

Q. Well, under the present conditions there is nothing to stop the companies from offering, as one witness testified this morning, fifty per cent, went, on this preferred business to the agent; that is different, between the companies, that commission, is it not? A. I have been after many and many a small man, when I was a boy, starting out in the business, to get him insure, five hundred or one thousand dollars on his furniture, where if I got half the premium, which I did not get, I would not have been overpaid, after chasing to collect the premium, and making a number of visits, and paying car-fare and all that I had to go through to induce him to carry that policy.

Q. From the testimony of the gentlemen from Wisconsin, Ohio, Illinois and Missouri, it seem that there is a substantial agreement between the companies as to the question of rates, in some places, as in New York, amounting to a combination on the rate end of it, but the commission end of it is wide open, and that is the only place competition exists? A. I freely admit that.

Q. And when a State approaches the companies and say, we are going to limit commissions, that is bad business, from the company's point of view all around; and when they come in and say anything about the rates, that is all wrong; now, have you any middle course to suggest, as a way between those two extremes? A. Your statement of the procedure is very correct. Studying the thing I have come to this conclusion; that when the companies found it necessary to have organization in some measure, and arrived at that measure by some sort of an agreement that seemed to be necessary for the maintenance of that measure of hazard, they left open only one thing, and that was the competition for agents. And the competition for agents has forced the commission. That was the only competition practical. There is now in the fire insurance, now in the regular stock companies. Of course there are various mutual and Lloyd schemes and so forth that think they can write insurance cheaper than the stock companies do, and they can when the weather is fair, but when it is not, why

they are not there. But all the competition now is for agents. If a company wants to do more business in Illinois or New York, what do they do? They employ additional special agents to go out and plant more agents. Now, that is where I say there should be some restriction. If you are going to permit the companies to make the rate, and I think it is entirely proper they should make the rates. The State now requires a license for every agent, and I cannot understand why that should not serve some end. It does not now. They license anybody the company asks.

Q. Of course you would get at that by Mr. Markham's suggestion, of only permitting one man in a place, wouldn't you? A. I think that is one good suggestion. But one man in some places would be too many. What I mean is this, it depends on the size of the place.

Q. It is a pretty hard thing to get at and define in a statute, isn't it? A. It is a very difficult problem and I do not think anything of that kind can be solved absolutely correctly, just as you cannot apply a tax of any kind, or make any sort of a regulation that isn't going to work some hardship on somebody, some general condition or imaginary or real condition.

Q. To sum up your belief, you believe that the competition between the companies for agents should cease? A. I do, most assuredly.

Q. Just as the competition among the companies in old days for business has ceased? A. I most assuredly believe that. That is the present evil in the business; the competition for agents.

By Judge BRUCE:

Q. Would you go still further, and say that if a State had permitted a competition to fix the rates and the State having limited the number of agents, the State should also have the power to revise or regulate rates? A. Rates?

Q. Yes. A. This idea is not original with me. I have heard it from different sources. You get into the whole problem when you get into that question, the whole problem of the regulation of all businesses. Now, I don't know, but what fire insurance is a business a little more subject to regulation than some businesses, but I think that each business should be permitted to regulate it-

self, as long as they treat the public fairly; but as soon as they do not treat the public fairly there should be some power that would step in and say, "Gentlemen, you had better revise your schedules a little bit, they are going a little bit too far."

Q. Don't you think a government which permits a combination to control the price of a necessity, must in justice to its citizens reserve to itself the right of supervision over the price? A. There should be some sort of supervision to curb a monopoly. There is no question about that.

Q. If you concede that insurance is a commodity, and that is conceded for the sake of the argument; also if you concede it is a necessity, which is not a very violent concession in the modern method of doing business, then if you allow a combination to control a commodity which is a necessity and fix the price, doesn't it follow irresistibly that the government, in the protection of its citizens, reserve to itself the right of supervision? A. I believe you are absolutely correct. What form of supervision that takes, is a very hard question.

By Mr. Hurrell:

Q. Do you think the operation of these various boards of underwriters throughout the country has served to reduce the average rate? A. I most certainly do. It is the only way we have to stop the irresponsible fellow from endangering his neighbors.

Q. Then, I take it, you believe that the system as it is, has been a good thing for the people? A. I do believe the present measure is the only measure that there is, and that there should be something to stop this indiscriminate destruction of property.

Q. And if you should agree that State supervision should step in, it would be to prevent abuses of the future, rather than existing abuses now, is that your view? A. Well, I would not want to say there are not some abuses now. I don't think any of these things are perfect. But I do think that the form of supervision must be pretty carefully exercised, because you are stepping on the rights of private citizens, those of contract, and so forth.

Q. Are you chairman of the committee in the national association that has to do with the new law that is to be proposed by the

agents as to the qualification of agents? A. Why, I am chairman of that committee. I don't know whether we are going to propose any laws or not.

Q. I understood you to touch on that subject once, but to simply say you believed the numbers should be lessened? A. I do believe they should.

Q. Have you got any ideas that you can express, that could go into a statute, to define the standard that you would put up? A. Well, I have some very crude ideas, but I don't know whether I am prepared yet to present them or not. All I have to say on that subject is that something ought to be done, and it is a question of method, and I don't know, — I am not sure what the proper method is. I have not thoroughly made up my mind.

Q. Without stopping yourself, or changing your mind in the future, what are your present ideas about it? A. Well, it would be simply a means to an end. Anything we do on that subject would be a means to an end, and we don't claim anything else for it. It is a desirable thing to reduce the number.

Q. Let me ask you the question; do you think a law which requires every man doing fire insurance business to have an office and advertise himself as a fire insurance agent would help? A. That would help, yes.

Q. Are you in favor of a State examination to test an applicant's fitness to practice the fire insurance business? A. That would help, yes.

Q. Do you believe that a broker or solicitor should furnish a bond that he would not steal the money that he collected for premiums? A. I think right there is a very important thing. I think the present situation is absolutely absurd. If you will take the losses of any company that has failed in the last five years, and go into the facts, you will find that their uncollected premiums which have been allowed by the various departments as an asset, were never collected. And the State is fooling the people when they say, "This company has so much assets, and so much of it consists of uncollected premiums," that never are going to be collected after a fire. I think one thing that is absolutely absurd now is that the State should license a man that is behind in his balances. It seems to me that is the craziest thing that the

State could possibly do, to license a man as an insurance agent when he has money in his pocket that belongs to the company.

Judge Bruce: You mean as an insurance broker?

The Witness: As a broker or an agent.

Q. In most all these States where there is the license system the companies apply for the man's license? A. Yes.

Q. Now, I suppose it is because of this fierce competition for agents, that they stand for a man who is behind in his balances? A. They feel he has got control of the business in that town, and if they leave him they won't get any business out of that town.

Q. Do you have the assistance of brokers in Chicago in placing business? A. Yes.

Q. How many of them are in your town, about? A. Why, what you call brokers — we do business in various ways in Chicago. We do business through brokers, and we do business through solicitors, and we do business through sub-agents; and they all would probably be classed as brokers; and of them, there are probably five thousand.

By Judge Bruce:

Q. With you, whom does the broker represent? A. You are getting into legal questions now. I would rather you ask my friend the attorney.

Q. Does he represent the company or the assured? A. He is paid by the company.

Q. The same as he is here? A. Yes.

Q. And he is licensed by your organization? A. Yes.

Q. Well, whom does he legally represent, the assured, as he does here — speaking now of the broker? A. That is a legal question; I understand you lawyers differ on that subject. I know when we attempt to collect a premium that a brocker has collected and stuck in his pocket the assured always says he is our agent, and we always say he was the assured's agent.

Q. With the solicitors — do you license solicitors? A. Yes.

Q. Who do they represent? A. They represent the agents.

Q. That is, the companies? A. That is, the company.

Q. The agents represent the companies? A. The agent is responsible for the acts of his solicitors.

By Mr. HURRELL:

Q. You can easily define the difference between a man who is attached to an agent's office, employed by a local agent, with power to issue policies, and a man who just has an office where he solicits the insurance business, and carries that business to an agent and gets a policy and delivers it to a man? A. Yes, I will say there was a difference there, one was a broker and one was a solicitor, but in effect they are the same thing.

Q. A broker is a man who is not attached to an agency at all, who just goes out and gets insurance and carries it to the company, or the company's agent, gets a commission on it, and gets the policy? A. That is generally accepted.

By Vice-Chairman BROUGH:

Q. But, he is employed by the company? A. He is paid by the company.

Q. The servant of the company? A. I guess so.

Judge BRUCE: That is a legal question?

The WITNESS: That is a legal question. I understand there are decisions both ways. I know the company pay him.

Vice-Chairman BROUGH: The company pays the loss, even if the broker hasn't turned over the premium, provided the assured has paid it?

The WITNESS: Yes.

Vice-Chairman BROUGH: Invariably?

The WITNESS: We tell them we will not, but we usually do.

Vice-Chairman BROUGH: The attitude of the company is that the broker represents the assured, that is the attitude of the companies?

The WITNESS: Yes.

Vice-Chairman BROUGH: What do you charge for a license to a broker?

The WITNESS: Ten dollars a year, and then they have to pay twenty-five dollars to the city for a broker's license, the same as any broker.

By Mr. Hurrell:

Q. You did not mean to be understood, in answer to the Chairman's question, that in cases where a broker had collected a premium and failed to turn it in, that in all cases of that kind, where there was a fire, the company would pay? A. Well, now, that, of course, is a question. Under the Illinois law — I don't know what the law is here, and I am not absolutely clear in my own mind what the law is in Illinois, because we have had opinions of attorneys both ways.

Q. If a broker, representing an individual, takes the business to an agency office, and gets a policy and delivers it, and the policy is delivered to him as the agent of the insured, and he collects the money from the insured and puts it in his pocket, and after a while the company cancels the policy, and advises the broker it is cancelled for non-payment of the premium, and he doesn't inform the insured, the insured is not protected, is he, or do you mean that question is open in your State? A. That question is open; but, I can tell you we have had advice both ways; we had advice where a broker made a cancellation, and that was the entire subject, of whether the company should pay or not; that was the question.

Mr. Hurrell: I might say for the Chairman's information, just that case has arisen in this State, it has been held that the man is the broker of the assured; in that case the broker got the notice of cancellation and he did not deliver it to the assured; and a fire occurred, and the insured lost, because he was not protected. That is the situation in this State now.

Judge Bruce: Here, the broker represents the insured.

The Witness: We are so afraid that is not the law in Illinois that we refused to charge the return against the company; we pay the company ourselves, and lose the money.

Q. Then, you have a situation where the insured in Chicago is better protected, because he is protected against his broker? A. We believe that is the situation.

Q. Whereas, here he is not protected against the broker? A. We believe that is the situation.

Judge Bruce: But the law is unsettled?

The WITNESS: In my mind it is. I don't know but what in the opinion of an attorney it would be settled.

By Vice-Chairman BROUGH:

Q. The companies issue policies to a broker for the insured without being paid the premium, does it not?

The WITNESS: Yes.

Vice-Chairman BROUGH: It gives a credit to the broker?

The WITNESS: Yes.

By Mr. HURRELL:

Q. Do you have an anti-rebate law in Illinois? A. No, we have not.

Q. Do you take any measures in your board to prevent rebating? A. Yes.

Q. What is the penalty? A. The penalty? The penalty on that has been changed lately, I would not be sure what it is; whether it is extortion, or simply confined to a fine.

By Judge BRUCE:

Q. Do you have the co-insurance clause in Illinois? A. Yes.

Q. The eighty per cent clause? A. Various co-insurance clauses, from fifty per cent up to 100 per cent.

Q. And you regulate your premiums upon the amount of insurance he takes? A. Yes.

Q. That is more scientific than fixing it at the arbitrary standard of eighty per cent, don't you think so? A. Unquestionably.

By Mr. HURRELL:

Q. Is there anything else you wish to add? A. I don't think there is anything. I think that is all.

Mr. HURRELL: That is all. Mr. Woodward.

CLAUDIUS H. WOODWARD, called and sworn as a witness, testified as follows:

Examination by Mr. HURRELL:

Q. Mr. Woodward, where do you reside? A. Buffalo.

Q. What is your business? A. Insurance.

Q. How long have you been in the business? A. Nearly forty-five years; two years and a half as a clerk studying the business; and over forty-two years as a policy writing agent.

Q. Do you belong to the Buffalo Association of Fire Underwriters? A. I do.

Q. Have you served in any capacity in that board, as an officer? A. Yes, I was. I don't think I ever served in any office under the present association, which is organized under the charter. I was one of the incorporators of it. But previous to that time, in other local boards, I was secretary for fifteen years of the local underwriters. And of course I have always been an active member of all organizations, serving on committees; but I think I have never been an officer of the board acting under the charter.

Q. Who is now the president of the local board? A. Mr. Cady.

Q. What is Mr. Cady's full name? A. Frederick L. A. Cady.

Q. And who is the secretary? A. W. H. McPherson.

Q. I show you a book, called the handbook of the Buffalo Association of Fire Underwriters, and ask you if that is the charter and by-laws of that association, under which the agents of the companies are now acting in the city of Buffalo? A. The copy of the charter, I have no doubt is exact. The by-laws have been so amended, so largely, since that was published, that I would not be sure about that, even if I read them over, without comparing with the official copy in the rooms at Buffalo.

Mr. Hurrell: I offer in evidence, Mr. Chairman, pages 1 to 4 of this book.

(Marked Exhibit J-1.)

Q. This association is the body that makes rates for the city of Buffalo, and the city of Tononwanda, is it not? A. Yes, sir.

Q. How many members have you? A. May I say, that we included Tonawanda, at the request of Tonawanda agents. Originally we only covered the city of Buffalo, but our business relations were so close they asked us to take them in, and we did so, we took in both Tonawanda, the Tonawanda of Erie county, and North Tonawanda of Niagara county.

Q. How many members have you? A. I could not tell you exactly; my impression is something over seventy.

Q. And the membership is composed of local agents? A. Yes, sir, entirely.

Q. How do these local agents in this board make the rate? A. We have on all classes of risks, excepting dwelling houses, churches, schools and public buildings, schedules for a great number of classifications, I think. Well, I would think offhand, for perhaps thirty or forty different schedules, applying to different classes of risks.

Q. Do these agents that are in the board represent substantially all the local agents in the city of Buffalo? A. Yes, and no. There is a mutual local company outside, and there is what we call a non-union board agency, representing eight or ten companies; and there is a considerable amount of business that goes to the individual underwriters, or mutuals. We have quite a competition with us, in what is called the Parry mutuals, mutuals about Indianapolis. A man named Parry started the first one. There are two or three there called the Parry Mutuals.

Q. Are they prepared to do business in your city? A. I am not sure; they may have done a little under the new law, but not before that time.

Q. How long have they been there? A. The company has only been organized about ten years; they have been there all that time, or nearly all that time.

Q. Now, what would be your estimate of the amount of insurance business in Buffalo controlled by the members of this local board? A. In premiums?

Q. Yes. A. Probably ninety per cent.

Q. And what method do you pursue there in your board, to see that the rates promulgated by the board are observed? A. By the companies, or agents?

Q. By the agents, representatives of the companies? A. We have daily reports of all our policies, that pass through our office, and they are brought to the office, and there vised by what we call our stamp clerk; that is, compared with the rates in the cabinet, and if they are all right, they are O. K'd, or something of that sort, and sent to the different companies. I don't really know what they put on it now, but that is the idea; because we don't see them after they are vised.

Q. They send a copy to you, and another to the board? A. No, we send our reports to this office, and they go from this office to the companies.

Q. Now, what is that done for? A. That is to correct errors and mistakes that are constantly being made because our rates are changed. Well, it is simply a tremendous amount, changes that are made in rates, in consequence of change of occupancy and the improvements of risks. It is a tremendous amount of work, and almost impossible — for instance, I would issue a policy two weeks in advance we will say — we have to keep our business somewhat in advance, and before that policy attaches the rate may have been changed, and then it comes back to me and I have to change it.

Q. And when the daily report goes through the board even if there is any mistake are you notified, or the company? A. We are notified ourselves.

Q. And you correct that mistake? A. Yes.

Q. Making another daily report for the rate? A. Yes.

Q. And all that goes to the company? A. Yes.

Q. One of the purposes of that is, is it not, to see that all of the local agents observe the rate promulgated by the board? A. it has that tendency, but that does not prevent their cutting rates. The reports might be faked, or they might rebate.

Q. But one of the tendencies and one of the purposes doing that is to see the local agents are observing the rates which their own board promulgates? A. Yes; the object is that there shall be a uniformity of rate among all the agents, that one shall not take advantage of the other.

Q. And that the company can see whether the local agents are observing the local board rates? A. Yes, sir.

Q. Is there anything in the contract between your firm and any of the companies you represent to the effect that you will observe the rates? A. No.

Q. Promulgated by the board? A. No, sir.

Q. There is I suppose among reputable underwriters that understanding between themselves and their company that they will observe the rates of the board? A. It depends of course upon the company. If the company is insistent on tariff rates and we did

not obtain them, they would say to us, Here, you obtain those or we will go somewhere else. There is no contract, but that I think is the natural course of events.

Q. What decides the question of whether a company is or is not a board company, a tariff company? A. The members of our association are tariff companies. Those who do not wish to charge tariff rates stay out.

Q. A company may be a tariff company in New York, and a non-tariff company in Buffalo, and a tariff company in the State Association, may it not? A. Surely, oh, yes. You will excuse me for pointing this out. Ours is not a company board, it is an agents' board, and for instance, we may have union and non-union board and non-board companies in one agency, but we agree to charge the same rates for all our companies; that is, we bind personally.

Q. Have you any penalty that you visit upon an offending member who refuses to abide by the board's rates? A. Yes, sir.

Q. What is it? A. We haul him up, and if he confesses and said he made a mistake, or if he didn't make a mistake,—very often it is a mistake, or if he is a little bit too greedy, and he says, "I guess I bit off more than I can chew," We say, "Go and sin no more," and if he don't do that, we say, "Well, I guess you ought to pay a little something on that five dollars, or ten dollars, or perhaps twenty-five dollars."

Q. You fine him for violating —— A. We would fine him if we thought it was advisable; that is, we try to preserve discipline among our members where we think we have the right to do it.

Q. And if you had a man who did that continually I presume he would lose his membership? A. Oh, yes, certainly.

Q. So that is, you have a way there of enforcing the rates of the board by that method? A. We have it, but we cannot collect it off from him, nor we cannot put any punishment on him except to deprive him of the privileges of the association; that is the final punishment; that is the highest punishment we can give him; that is the limit that we have.

Q. But you find that operates successfully, do you? A. We have not had a case where it seemed necessary to go to that ex-

treme, I don't think, under this charter; I don't recall anyone now.

Q. In the city of Buffalo, about four years ago, it was burdened with a pink slip, was it not? A. It was.

Q. How long did the pink slip stay on? A. I don't remember exactly.

Q. Approximately? A. It was modified twice I think, and finally taken off; I think the final ten cents was taken off about two or three years ago.

Q. What was the pink slip? A. Would you give me five minutes to describe it from the start?

Q. Yes. A. We had a large fire in Buffalo, in one of our newspaper offices, and during the progress of that fire, it was just when they were using the elevator a good deal and the water pressure was so low the elevator did not run, and you know what newspapers are, perhaps if you don't, you had better read one, and it was in a proper position to immediately condemn the water supply, and as a matter of fact Buffalo, like other cities had decreased its water supply; that is, fifty years ago nobody had prepared for the growth of the city, and the water supply was antiquated to some extent, and the proposition was made by the superintendent of water works that we should improve the water supply, and at that time there were some breaks in the water-main which were alarming, and the papers, you know how they make the most of it, and how they get up a sensation in a large city, you know how it is in a large city if you are interested in fires and get up in the morning and find you could not get any water, you feel the chills going down your back in case of a big fire, you know how everybody felt about it. Then the commissioner of public works proposed a tremendously and elaborate proposition to the city, and the city gagged at it, and just at that time the companies seeing the sensational articles in the papers, some of them stopped writing in the congested districts, some reduced lines and they all came there and conferred with the superintendent of public works, who told them the water works wasn't good for anything in the city, and they decided to put on the pink slip, so as to get it fixed, that that would bring them to their senses, and then they would improve it. The local agents felt it

would inflame public opinion and did not think it was an advisable thing. We did not object to it because we thought the companies were wrong in their charges, because their charges had been built up by the statement of the experts of the city, the commissioner of public works and the superintendent of water works who had said it was inadequate, and the papers said it was inadequate, and the fact that they had been breaking mains would indicate it, and the companies were genuinely alarmed and they were not really to blame for asking for the pink slip.

Q. Did any companies withdraw from the field? A. Some did, from the congested part; yes.

Q. When did the pink slip come off and why did it come off? A. They have improved it very materially; there has been tremendous improvements; they spent millions in Buffalo in the water supply.

By Judge BRUCE:

Q. How much was the first pink slip? A. 25 cents.

Q. How long did that remain? A. I think that remained less than a year as I recollect it.

Q. Then what was it reduced to? A. Then to 15 cents.

Q. How long did that last? A. That remained, I think, about a year; no, I don't think so long as that, perhaps six months, and then reduced to 10 cents, and that was taken off too; I think perhaps 10 cents remained on about the third year.

Q. How many years did you have pink slips in Buffalo? A. About three years as I can recollect it; I would not say positively; but, excuse me, that pink slip did not apply to any part of the city except the congested part of the city; did not apply to the preferred business or dwelling houses or churches or schools or anything of that kind, it applied simply to the congested part of the city, a very small area.

By Mr. HURRELL:

Q. 25 cents was an advance how, 25 cents a thousand dollars of insurance? A. No, 25 cents a hundred dollars.

Q. Now, what provision does your board make —— A. Ex-

cuse me. You will understand the lay of the city, this territory to which it was applied was up through Franklin to Ellicott street up as far as Chippewa street, so you can see what a small part of the geographical area of Buffalo was covered by it.

Q. You make provision for the licensing of insurance brokers in Buffalo? A. Yes, I do.

Q. How many brokers have you in town? A. I should have to guess at it; I should say about 500 probably.

Q. Are they licensed by your board? A. Yes, sir.

Q. And do they pay you an annual fee? A. Yes, $2.50.

Q. And do they sign a pledge with your board not to violate the rules of the board? A. Yes, they do.

Q. What is the nature of that pledge? A. Now, I did not think of being asked for that. Didn't they send it down with the other supplies?

Q. No. A. You can have it. We will be very glad to send it to you. Did they send you these schedules?

Q. Yes. Is it a similar pledge to that exacted from the brokers here by the New York Fire Insurance Exchange? A. I don't know what that is.

Q. How long has that organization made the rates, the one in operation in Buffalo now? A. From the time it was chartered.

Q. Was there ever a rate war in Buffalo? A. Yes.

Q. When was that, since this organization? A. I think not since then.

Q. Of course, you lived through that rate war? A. Yes, I did just barely live through it, but I want to tell you that a rate war is hell, and I will tell you in just two words why it is hell. You go to a man, a fair minded man, and he says I want to pay a fair rate, what is a fair rate, and you work it over just as low as you dare to in justice and honor to your company and say the amount, it is a fair rate, and he says all right. You go to the next man and he says, what will you take my business for. We name what we think is a fair rate, and he says, Huh, I can get it for so much less, and after you have reached the tentative limit with him, he says, You can leave your policies and I will see what I can do, and at the end of perhaps two months you get your policies back and he says, No, I have done better, and you get no payment for the

time the policies have run, and you feel mean enough; you have charged one fair man a higher rate and the man that had your policies, he gets his rate for nothing.

Q. That is the vice of a rate war? A. Yes.

Q. It is a discrimination finally resulting between citizens —— A. It is as much a crime to charge a man less than his risk is worth than to charge more, because somebody has got to pay all the losses, and the man paying less is not paying his share.

By Assemblyman FOLEY:

Q. Is there any discrimination in the line of rebates? A. No. We do all we can to prevent rebating. We forbid it in our association.

Q. You do not think that has any wide field? A. No, not widespread. There is a considerable amount of it in the smaller agencies; the larger agencies are almost absolutely clear of it.

Q. What do you think about making it a misdemeanor, rebating? A. I think it ought to be one. I think you ought to punish the assured as well as the insurer.

By Vice-Chairman BROUGH:

Q. You say a fine was the punishment for rebating? A. We say if a man was a chronic rebater and convicted for it time after time we would expel him just as we would for cutting rates. We do not believe in discrimination.

By Mr. HURRELL:

Q. I take it from your remarks that you believe in an anti-rebate law? A. I certainly do.

Q. Do you believe the State should take over the business of licensing brokers? A. I do.

Q. What are your ideas about what the State should charge and what the State should demand of any broker or agent? A. May I say, all these men here are talking, they are giving each their personal opinions, and we have not compared them. You will notice difference of opinions of different men, and this insurance business is a tremendous problem, and the man never has

lived, the man does not live now, and the man never will live that can tell what is a fair rate on any particular risk, because you don't know what the risk is worth until after the goods are sold and paid for and the policy has expired. In any other business you know what a thing costs before you start it. In the insurance business you know what it costs after you get through. And what interests the people of this State who buy an insurance is not so much the cost of their insurance; it is not so important to them whether they pay 21⅝ cents to the agent or whether they pay 21 2-8 cents to the agent, but what does my insurance cost? The great cost of insurance, 60 per cent at least, we will say, of the cost of fire insurance, is represented by the losses, which could be reduced one-half. It is a crime, and this country will wake up some day to the realization that the preservation of the artificial property, the buildings, the factories, and the stocks of merchandise, its absolute annihilation by fire, is as much a crime as the destruction of our forests or our coal mines, or anything of that kind; and my theory is that to-day if you get a better one you will take it to-morrow. I am simply saying what I feel to-day, that the fee should be quite heavy and that that money should be used by the State in the enforcement of a fire marshal law which would investigate an inquest on every loss, it don't make any difference, big or little, not only to see whether the loss is crooked or not, but to see the cause of it, so that it may be prevented in future, and that no loss should be paid by a company until the State officer who has investigated that loss will say on the proof of loss vised, that it is a fair and reasonable proposition. It is not only, gentlemen, that we are suffering from the crooked losses, but we are overpaying honest losses, over and over again, because no company can afford to contest a loss. Have you time to let me give you two or three instances of that very briefly, concrete instances of that?

By Mr. Hurrell:

Q. Yes. I take it that your answer at length to that last question is this, that all of this inquiry into expenses, making of rates, and regulating of companies is a high service? A. How is that?

Q. This inquiry into the rate making and expense ratio and the

regulation of the companies, that the real thing the State ought to do is to get down and enact statutes and enforce them that would force the fire waste to be reduced? A. I would not say — there is no room for criticising other matters, but the fundamental thing is the fire loss.

Q. The fundamental thing is to have this country do what has been done abroad, and the rest of it will follow naturally? A. Yes. What difference does it make to a grocer that I insure whether I get two cents on the dollar more than I ought to on his insurance if I buy a dollar's worth of groceries right from him. Now, every dealer paid that expense and the commission remains in the country and passes from one hand to the other; it does not impoverish the country at all; but every time you burn up a thousand dollars worth of property the company is impoverished that much. I would not mean by that that we ought to charge anything we can get, but I mean to say it is not so important as compared to the fire waste, and that is why our present system of schedule rating and the fierce competition between companies and agents by which we follow up and furnish a man every opportunity we can to reduce his rate and save property from destruction is invaluable to this country.

Q. You were going to give a couple of illustrations? A. I want to give two or three illustrations that come to me. Excuse me, gentlemen, an old man that has been pretty long in the business and had quite a lot of experience. Many years ago — the president of the company is now dead and the special agent of the company is now dead — a summer hotel burned up in the interior of the State. A little fall of snow occurred about that time and the incendiary was tracked, and satisfied that he was the owner of the property that burned it up, and everybody in the community said, anybody that will pay that loss ought to be fired out of town. The special agent was a new man and he went in and they all told him don't pay it, don't pay it. We says, all right, we won't pay it. He went to work and sued the company, and in the course of a year all the people said, why in the devil don't that company pay that loss? Don't companies ever pay losses; and he proved an alibi and the company paid the loss and expenses, but when he went to New York and reported it to his company

the president sat back and he laughed, and he said, Louis, that ought to teach you one thing, when you go into a town to adjust a loss if they meet you at the station, and every corner, if they come to the hotel in delegations and say they all saw that man put the torch to his place and burn it, don't go into the courts at all, settle it as cheap as you can. Now, public opinion is so unreasonable. I will give you another. A grain elevator in Buffalo slid off its foundation into the canal just a few years ago; you were there at the time and know about it. The owner claimed that there was a small fire which produced an explosion and the elevator blew up and fell into the canal, but the evidence was so strong the other way that the companies decided to contest it. It is in the courts to-day, and the companies have paid for expenses already more than it would have cost if there was a total loss, and it is still in the courts. Another case: Within a year, a small town in New York State, a printing office, a newspaper printing office had a fire. They got in one of those independent adjusters that gets a percentage on how much then can get; the more they get the bigger percentage, and he made up a claim in the neighborhood of $30,000. The companies there, much to my surprise, had backbone enough to say they would not pay it, it was exorbitant, outrageous, and in the meantime the newspapers came out every issue damaging the insurance trust, and how the companies were robbing and would not pay an honest loss; just simply the idea; you know you have seen those things before; but the companies at once had the grit to fight it out, and they got the editor after a time in due course of law as provided in the policy and they examined him under oath, and he had to admit under oath that a press which he put into the proof of loss at $8,000 was now printing the paper.

Q. Now, this suggestion you have made about a fire marshal looking into every fire and O. K'ing the loss before it could be paid, that would make a fire marshal substantially a court to pass on law and issues of fact, and that would be absolutely impracticable? A. Perhaps so; I am not a lawyer.

Q. As far as you may go safely with the fire marshal law, would be to have it inquire into every fire; if you wanted to have the highest standard of efficiency and report his findings, what

his findings were as to the cause of the fire in every case; and I suppose you would also recommend from what you have said that statutes should be formed or framed by the States and put in operation whereby carelessness would be penalized, pure carelessness? A. Publicity would do it.

Q. That would be gained from the report of the fire marshal? A. Yes. The marshal goes into a man's place and investigates and says, you don't deserve to have any money, a man that has kept your place so careless as you have, there was that criminal carelessness almost by which your whole property was endangered and also the whole town; that would have a very wholesome tendency not only against men that are dishonest, and there are not so many men that are dishonest, there are not so many incendiary losses as you might think; there is another class that are willing it should burn and they do not take very good care of it, but mostly it is carelessness and haste and hurry and recklessness; but if a man knew he was going to be investigated and the whole thing was going to come out and show that he had been disgracefully careless or reckless and endangered his whole property and the lives of others, I think it would have a very fine effect.

Q. And you, as a local agent, are willing to pay a pretty good license fee to the State in order that the State should have the funds to put in operation this fire marshal law? A. Yes, sir. I would not mind paying $500 a year license, but I think others would probably object to such a high license as that.

Q. What do you think of the preferred business we have been discussing? A. There is something in that.

Q. Something which way? A. There is such a thing as preferred business, and there ought not to be such a thing; we will all admit that, theoretically. Let me explain how we arrived at that. Originally risks were nearly all alike in the start; when the business started 50 years ago a dwelling house with its imperfect chimneys and cheap build was about as much a risk as a planing mill, and so they made the rates; starting out originally it was all guess work making rates, rates were made practically the same on everything, but as the evolution of the business has come around, dwelling houses have been made safer and business prop-

erty has been more unsafe, and there has been a gradual separation, but the process of reducing the dwelling house has not kept pace with the reduction of the risk; it is largely that; and because there has not been a demand, another thing, local companies, small companies and local companies have, wherever they have burned, they find the companies opposed to a reduction of rates in dwelling houses. To show how much reduction there has been I want to say rates on dwellings in Buffalo are about one-sixth of what they were when we started in business.

Q. And what is your rate? A. Fifty cents for three years on frame dwellings; forty cents for three years on brick.

Q. Do you believe there is an undue competition between companies to secure agents? A. Yes, to a certain extent. There is a whole lot of little things that are not right in business. That is one of them.

Q. How far do you, as a practical man, think the Legislature could go in attempting to remedy any of these conditions by legislation? A. I think that a license law with as liberal a fee as could be passed, based upon the population in the territory covered by the license, because property generally follows population, say around from $5 to $10 a year, and such other qualifications as could be made, general qualifications that would be applicable to all sections of the State, and a bond, would reduce the competition considerably; would weed out some incompetent agents, and would reduce the cost of insurance somewhat.

Q. Do you believe that the idea suggested by Mr. Markham should be followed, that companies should be held down to one agent in a municipality? A. I think not in a municipality, no; I would not say that, but I would say in any territory, take for instance a municipality like Greater New York, I should say that my idea would be that there is not absolute equality in anything you know that, but as near as you could get it, one agent in a given territory; for instance, here in New York, give one perhaps lower New York and one upper New York and one part of Brooklyn; you might have ten agents in Greater New York.

Q. If you sought to regulate that by a standard you could regulate it by one agent to a certain population, could you not? A. A geographical section; my idea would be to base it on

population; take the last census, it would be a very simple thing; the census covers even the wards in every city.

Q. You know that this Committee has been investigating the fire insurance exchange of this city, and the up-State association? A. Yes, sir.

Q. The last few days? A. Yes, sir.

Q. And of course you know the end is that the Legislature may determine the remedies, if any, ought to be put in operation against present conditions. I want to ask you your opinion of the proposition to put into operation a State rating board. A. You mean by the State?

Q. Yes; you have been through States where there was open competition between the companies, I mean at times or periods of open competition? A. Yes.

Q. And of the closed shop, so to speak? A. Yes, sir.

Q. What do you think of the State going into this business to the extent of regulating very closely the combination that seems to exist not only in this State but all over? A. I do not know that I just get quite the scope of your question.

Q. I will simplify the question by asking you how far you think the State can go in the matter of regulating rates charged by fire insurance companies? A. I do not think the State can possibly, in theory or in practice, make rates equitable. I don't know as that can legally be done — I am not sure about that. The most experienced man in the insurance business, as I said before, the man that is drawing $25,000 or $50,000 a year, he can tell you what it cost him last year to insure in a general broad way. He cannot tell what it is going to cost next year or any other year; and you take a State rating board, and it can do but one thing, and that is reduce rates. Any member of a State board that ever proposes any advance in rates would have no political future.

By Assemblyman FOLEY:

Q. The companies could suggest the increase? A. Yes, but if the State had to enforce it, you could not enforce it by the vote of the State or by the legislation of the State, and if the officer enforced it he would be out of business as quick as his term was up.

By Mr. HURRELL:

Q. You are thinking of the situation now that happened down in Texas? A. Yes.

Q. Where the State board attempted to equalize rates by forcing up a lot of them, and got in trouble? A. They tried to equalize it, and enough went up so they threw the whole out.

By Judge BRUCE:

Q. Don't you think, in theory, if the State allowed an organization which controlled rates that the State should reserve to itself the supervision of rates? A. I think the State ought to know something about how it is done, and there ought to be publicity, any amount of it, and that the State ought to be able to learn all that it can learn from the records which the companies keep.

Q. Do you recognize insurance under our modern form of doing business as almost a necessity, do you not? A. As I said I am not a lawyer or an economist. I am like one of our famous citizens who is now dead, who said I think it is a condition and not a theory. I am a great deal more interested in the cost of potatoes, and every other man is, and beef and flour, than he is in insurance, because we have all got to have that; a man don't have to have property, that is, any amount of it; it is a matter of ethics; I don't know anything about the law, and it is a matter of benefit to the citizen, as a matter of benefit to him it seems to me if it is legal it would be much better for the citizens if you would investigate retail prices. I saw the other day the Merchants Association of this city had complained about the cost of doing the insurance business. Did they give you the difference in the cost of their material from the time it left the factory until the time I buy it? A man in the furniture business says to me the other day, I buy a thing for $2, I put on ten per cent for overhead charges, if I sell it for cash I put on 100 per cent, if I sell it on instalment I put on 200 per cent. The other day one of my clerks living out in the country about fifteen miles, I says, Mabel, what are they selling potatoes for, it was kind of a joke, her family are farmers. She says, thirty-five cents a bushel delivered at the depot. I says, What are you paying

for potatoes; she says twenty-four cents a peck, and fifteen miles to Buffalo by the car; delivered, by the time it gets to me I pay ninety-six cents for what the farmer gets thirty-five cents for.

Q. Don't you think now, to come back to my question, that in our modern business conditions that insurance ranks as practically a necessity to a business man or to the household? A. Well, I don't know as I would—of course you have a legal definition of a necessity, and you have a law covering that.

Q. I do not speak of an absolute necessity upon which life depends, I speak of it as a necessity upon which the successful conduct of any business depends? A. Yes, of curse.

Q. Do you think that the State should ally an organization in the city of Buffalo, or in the city of New York, or in the State of New York, to practically combine to regulate the price of a necessity without reserving to itself the right of supervision? A. Any form of intelligent supervision that the State can devise I think they are entitled to.

By Mr. HURRELL:

Q. You say intelligent; that is about where we were before. Have you got any limit that you think the State could safely go to in supervision? A. I want to say all the information, and all the information that any company had before you, any gentlemen that are experienced underwriters, if you had before you every particle of knowledge that every insurance company in New York has, and attempt to do the insurance business on that basis, if you attempt to do it you will make either a million or bust up the first year, because those statistics, they are a weather vane in the first place; they point one way to-day and another way to-morrow; and over and above that there has got to be a knowledge of conditions which are constantly changing. I will illustrate. All companies experience on lumber yards and lumber mills is a certain figure. There comes a drought in those Northwestern States, and there are thirty or forty or fifty manufacurers there. The man still with his nose in the statistics and who keeps writing those mills up under those changed dry conditions would simply be losing money right along. For fear we might pass from it I would like to express my opinion on this preferred

business question. There are three factors enter into that; the point that I make differentiating between the hazard of dwelling houses and the hazard of the factory or mercantile business, has not followed as fast as the change in the hazards has, partly because premiums are small, and the assured has been accustomed — they have been going down all the time and they are satisfied. Secondly, it does not cost more to do the business, no question about that, but there is an injustice there I think, but it is not very material; it is not very great.

Q. That is, it does not fall very heavily on any one man. A. It does not to my mind; it is very small in amount; in the aggregate it is small.

Q. Well, take a householder who is carrying ten, fifteen or $20,000 of insurance, it is quite an item of a tax; if he is paying, for instance, you say fifty cents, or in incorporated villages with fire protection paying sixty cents, there is a tax there of something like $40 a year? A. On $50,000?

Q. Say $20,000. A. $20,000 at five cents would be $100.

Q. Speaking of sixty cents, which is the minimum rate in incorporated villages, that becomes quite an item? A. Yes.

Q. And most of the complaints which have come to our committee, a great many of them, perhaps I ought not to use the word most, have been to the effect that owners of dwellings have felt that they were paying more than their proportion of the share of fire insurance, and that some of the losses on more hazardous risks were being borne by them? A. Yes, sir.

Q. And that because they had been slow to complain or had been perhaps indifferent to the question and had not been active and diligent like the large insurer, was that this burden had continued upon them, and that there ought to be some redress? A. I think that the publicity that your Committee is giving, and the work that is being done by the Insurance Department of this State, the remark made by Mr. Hotchkiss last winter at one of the hearings where a broker said to him you can't do that legally, he said, "I will do it by publicity," I think that has great power and force, and the companies,I think the majority of them have simply — it is one of those things that a man puts off, marking down his price; you know how that is naturally, and they have

not in a sense you might say, have not got to do it. May I remark that the companies are now making the most sincere and strenuous efforts to reduce commissions in the accepted cities of the East, and it will be a very material reduction. As a whole, I do not think the commissions throughout the United States aggregate more than they should for the service that should be rendered on the average.

By Mr. HURRELL:

Q. I want to ask the reasons, Mr. Woodward, for your belief that as you expressed it privately, that open competition between companies instead of a state of concerted action would drive out of the field the small companies? A. Inevitably.

Q. Why? A. They cannot live. Here is a company with $20,000,000 surplus, and here is another company with $50,000 surplus. One compauny, the one that has got $10,000,000, can lose $5,000,000 in a year or three or five years, and be perfectly solvent. The other fellow cannot lose anything practically; and a uniform rate or uniform commissions will inevitably restrict competition.

Q. You have got a uniform rating now? A. No, we have not, I beg your pardon. Some companies charge uniform rates; the other companies do not.

Q. But substantially, I understood you to say that your judgment was that ninety per cent of the business in Buffalo was done by board officers? A. They do not have to do it that way; they can keep out of it.

Q. That is true, and, as Mr. Jenness has testified, seventy-five per cent of the business over the State and done in New York, that one hundred per cent of that is substantially done by companies in the combination? A. Does your evidence show that one hundred per cent is done in the combination?

Q. I would not say that absolutely. A. My own opinion would be about seventy-five or eighty per cent was done.

By Judge BRUCE:

Q. In the Metropolitan district? A. Yes.

Q. The evidence was that every stock company writing insur-

ance in the Metropolitan district was a memebr of the Exchange, that there were only two mutual companies, and an occasional writing by a Lloyds? A. There is a very large amount of insurance here that goes out of the State, an enormous amount of it that goes abroad and out of the State here and everywhere.

By Mr. Hurrell:

Q. To come back to that uniform rate, the great majority of the business is done now upon a uniform rate? A. The great majority of the business?

Q. Yes. A. Yes.

Q. That is a good thing from your point of view, is it not, for the companies? A. Yes, sir; a good thing for all concerned.

Q. Now, if you restricted — I started in to ask you to give the reasons why open competition would drive the small companies out and your answer is that the larger companies could outbid them on commissions and underbid them on rates. A. Yes, sir.

Q. In a State of open competition? A. Yes, sir.

Q. Do you believe that the restriction of the amounts permitted companies to pay agents in commissions would tend to drive out small companies? A. It certainly would.

Q. It certainly would? A. It certainly would, inevitably.

Q. You heard Mr. Tapping discussing that this morning? A. I did; I did not agree with him at all. An example he used in one of his illustrations: He said, the Commonwealth. I represent the Commonwealth myself, and their rate of commissions to me was fifteen, twenty and twenty-five. That was not very small, I do not think.

Q. Well, what kind of business did you get? A. That is the same. He said their commission — it is different grades of commission. Twenty-five on the preferred; twenty on the mercantile, and fifteen on the special hazard. That company was not built up on the very small commission. That is merely one company. That is the exception. That is not the rule, just as the Glens Falls that was spoken of. There is no parallel in the history of the world of the Glens Falls Insurance Company, and the secret of their wonderful success is a combination of many things which would take too long for me to go into.

Q. Then you think any attempt upon the part of the State to restrict the amount that companies could pay in commissions would lead to disaster? A. It would inevitably reduce the competition, and centralize the business in the hands of the strong companies. It could not be otherwise.

Q. Well, where do you think the need is for insurance in this State now? A. The need?

Q. Yes. A. What should be done to improve conditions?

Q. Where is insurance needed? A. Oh, where is it needed?

Q. Yes. It is in the congested valued districts, is it not? A. Yes; yes.

Q. There are all kinds of insurance for the rest of the State, and there is no need for any increase there; increase in insuring capacity? A. No, but the more companies you have — the rule is the competition reduces prices, and consequently the more companies you have anywhere in the State, a reduction in prices.

Q. Would you undertake to say the more companies you have joining the Exchange, the fact that there are several there, would reduce the premiums? A. No. But the companies won't all join the Exchange. You can organize twenty companies here to-day and put them outside the Exchange. There is billions of money here.

Q. They would have a hard time doing business in New York city? A. They would get all the business they want.

Q. How would they get it? A. Take some of these brokers, dissatisfied with the usual commissions they are receiving, and pay them five per cent more. They could hire men to go into a house to house canvass, they could do all that. But that is a little aside. May I say something — I know we are going to get through, and are going to adjourn before I get half through, but I want to speak of this point: Supposing you had no Exchange in New York city, and there was another substitute for it, which controlled rates, the result would be what you call the preferred classes; on the small risks, you understand. Down in the congested district the competition would be so fierce that the business would be done at perhaps half what it is worth, and in the congested district where they have to have the insurance, the companies would make it up by charging more than the Exchange

charges. I have known before the Exchange was organized — I have known of numberless instances, and have known the same companies that made a whole lot of money, not altogether on that, but have made a whole lot of money by insisting on twenty-five per cent, fifty per cent, and one hundred per cent advances over the rates offered by the other companies in the congested district where insurance must be had.

By Judge Bruce:

Q. Well, doesn't it from that follow that to-day, under the present conditions, the small assured in the outlying districts is paying too much, and the man in the congested district, where the great values are, and the great hazard of conflagration is, is paying too little? A. I think they have the rates in the congested district so they calculate they fairly cover the hazard, because there is no reason why the companies should not get it, because they have to have the insurance. I spoke to a man last night who said he has a dwelling house insured in this town that exhausted all the insurance companies in this city, and after they had taken all they could, he sent $500,000 to English Lloyds. Now, that may have been a New York story, but that is what he told me.

Q. Do you think if you did not have a uniform rate making body here, that the competition for this small business would be so great that they would write it at half what it is worth? A. You know what competition is between merchants in any other business. When it gets ugly and fierce, men doing business for nothing; less than nothing, to destroy competition. I do not know whether this sort of goods should not be the same as any other goods. You go into a five-cent store, and you pay five cents for something nice that costs six or seven cents. There is discrimination of the worst kind.

By Mr. Hurrell:

Q. Another matter the Merchants' Association called to the attention of the Committee was taxation of fire insurance companies. I assume, being an insurance man, that you will agree at once that the taxes are too high? A. Why, you know we have

sort of become reconciled to the idea in this country, that indirect taxation is here. We are in favor of it, and we will take it that way. If the State wants to tax property once through the insurance company, why, I would not quarrel with them about it, but I would not have them figure that is what the insurance companies should give them. That would not be a fair proposition.

Q. You would not charge up to the insurance companies the increasing rate you necessarily pay the State due to the tax law? A. No, indeed. I believe we need more supervision and real supervision, and insurance interests ought to pay for it. We are not protected in this State; companies are not protected; agents are not protected. Here is a man comes into Buffalo a short time ago and takes a $12,000 premium from us, contrary — and places it in Lloyds in London; dumps it over there, contrary to the law of the State of New York, and contrary to every system of tax you can think of.

Q. Now, Mr. Woodward, you have touched upon a matter that has been referred to here a number of times, and it is a rather difficult problem. I presume you will concede and the insurance interests will concede to that citizen of the city of Buffalo, that he had a right to go anywheres on earth and make a contract in reference to the insurance to cover his place in Buffalo? A. You mean a legal right, or a moral right, or ethical right?

Q. I mean a legal or moral right? A. No ethical right, no more than I have a right now to cross the river in Fort Erie and buy a suit of clothes for ten dollars, that I would have to pay a tailor in Buffalo twenty dollars for.

Q. You would not contend from that that you had done something that was immoral? A. Yes, I would, if I smuggled it. If I smuggled insurance or anything else.

Q. That is the point, but the immoral act would be bringing it in without paying the —— A. (Interrupting.) Paying the tax.

Q. Or custom? A. Duties; yes. Now, for instance, look at it here: You tax the companies and we all pay taxes for any business. If anybody has been fortunate enough to save a few dollars for taxes, he has to pay taxes. We have every form of taxes, customs, duties in buying goods, but a company that pays no taxes at

all, organized in some town where they are spending no money there or anywheres else, comes in here and gets business, and can do it for less, because they do not have to pay any taxes, and the property owner himself is not paying his share of taxation, because he gets his insurance cheaper on that account. That is to say, one set of insurance companies, one set of insurance interests, and one set of insurers are helping to pay the other fellow's taxes.

Q. You differ then, from the gentlemen who have been upon the stand, in that you do not think that insurance is a commodity? Now, Mr. Hess differed very strongly when Chairman Merritt asked him the question, or the Chief Counsel asked the question, whether it was not a commodity they were selling. Their answer was no, it is a contract, and that distinguishes it from the commodity. Now, you are arguing that the insurance is a commodity that should lend itself to the duty paying proposition in some form or other? A. No, I am not raising a legal point. I do not know enough to do it, but I raise this point: That in equity a company, attempting to protect ——

Q. (Interrupting.) You mean a country, don't you? A. I will talk about the State. I am not talking about law. I am talking about a condition, not theory; I do not know anything about the theory, but I believe if there is not some law there ought to be one, if we have to vote on it to make it a constitutional amendment, that every dollar of insurance that is put in this State should be put on the same basis of taxation.

By Judge Bruce:

Q. Well, why did this man take this $12,000 premium, and place it in the London Lloyds? A. Because it was represented to him that he could save some money on it.

Q. That is, he found a cheaper market in which to buy his insurance? A. Yes, sir; that insurance did not have to pay any tax.

Q. The State permitted your organization to fix your market for insurance in the city of Buffalo? A. Yes, sir.

Q. And thereby restricted largely competition, and if he finds a cheaper market in which he can buy, why shouldn't he be permitted to buy in it? A. As it is an injustice to allow a man to pay less than it is worth, it is an injustice to pay more.

Q. If the insurance agents could combine in Buffalo for the purpose of fixing the price of insurance, or any other commodity, do you think a citizen is bound to buy in that market, although he can buy in a cheaper market the same article? A. I think when the State imposes a tax upon him he should pay the same tax. He can go where he likes and buy if he will pay the tax. Then it is all right You could not ask anything more than that.

Q. Yes, but the tax which the State imposes is for the right to do business in this State, and yet, in connection with that, it does not give you the legal right, or should not, at least, to combine to fix the price. Now, you spoke of the man with the potatoes. Suppose all the grocers dealing in potatoes in the city of Buffalo had combined, and said we will charge $1.50 a bushel for potatoes, and thereby fix the price of what was a necessity, would you find any fault, if I wanted potatoes, that I should go out to Rochester, or to London, or to some other market, and buy my potatoes? A. If you would pay the same tax the vendors have to pay on those potatoes it would be a fair proposition, if you did not, it would not.

Q. Do you think because the vendor of potatoes pays a tax he can compel me to buy in his market when he can fix the price? A. No, if the State protects her citizens she should protect all equally, and tax all equally.

By Vice-Chairman BROUGH:

Q. You have just stated, Mr Woodworth, that in your opinion, some rates are too high? A. Yes, but I assure you gentlemen upon my word of honor, that in the forty years I have been in business, I have never heard an agent, special agent, or any company, in discussing rates, speak of anything but getting as near equity as we can. Now, we have not succeeded ——

Q. (Interrupting.) But you admit yourself in all this time certain rates have been too high, and because the premium is, from the money point of view, small, that it is the multitude of risks you get that makes the volume in amount? A. My attention is ——

Q. (Interrupting.) What is the difference between that and going somewhere else where you can get it for less?

Judge Bruce: It is not a fair rate in his opinion.

A. There are any number of companies doing that sort of business; the preferred business; there are probably five hundred companies in this country that are doing business in this city, that, if that business was profitable enough to make it worth while, would come in here and get it. My opinion is that those rates are too high, you understand, but the opinion of many is that the cost of doing business, you understand, in the first instance, and in the last instance — and there are so many small fires,— that it is worth more. Now, that is a question that has not been fully settled.

Q. This man that paid the $12,000 premium on property, studied the question, and found they were too high, and as proof of it he could get it cheaper somewhere else? A. Only that what he did was after he knew he could get it cheaper. Of course, if a man said he would do it cheaper, that is what he was looking for; cheap insurance, and not to stop the fire waste.

By Mr. Hurrell:

Q. Do you have very much competition from the London Lloyds in Buffalo? A. We are having a great deal of it lately.

Q. Mr. Woodward, you recognize, while you say you are not a lawyer, you recognize the distinction between a man who represents the insured, and the man who represents the company, do you not? A. Yes.

Q. Now, you would not go so far as saying here, would you, that there are authorized agents of London Lloyds, or any other unauthorized insurance companies, that is, unlicensed insurance companies, soliciting insurance from the citizens of this State, would you? A. You mean — I do not think I could get it quite.

Q. Are you in position to say to this Committee that in the city of Buffalo there are agents of unauthorized insurance companies, and individuals, soliciting insurance? A. No, we are doing — as for as I know, all that is done by the Buffalo agents is done under the conditions of 137.

Q. What I mean is, you have spoken of some insurance going out, and that the companies have a complaint, and possibly they have, which are paying the taxes to support this Government, and

they do not seem to be getting the business, you say? A. Don't get the protection.

Q. Yes. What I am getting at is, is it possible to give that protection? If it is, I want you to suggest the way? A. How can I? I am not a lawyer.

Q. Suggest some practical idea? A. It seems to me ——

Q. (Interrupting.) Just one minute, please. You undertook to tell this Committee that there are agents of unauthorized Lloyds or companies soliciting business in Buffalo? A. Yes.

Q. You do say that? A. Yes. That is, they are not domiciled there. They are fly-by-night fellows. They come in in the morning and get out at night.

Q. Then you mean to say that the man that got this risk was a duly authorized agent of an unauthorized company? A. I could not prove that. He might have been simply a solicitor.

Q. Now, that is just the difficulty. You cannot prove it. You know that a man, if you want to go to London Lloyds, or any other market outside of this State to purchase insurance — you go there and make your contract? A. Certainly.

Q. You can write there to make your contract, if you can describe the risk so the underwriter in the other State or country can get a fair idea of what this risk is. You can make your contract there. You can sign an agreement of indemnity, and you can do that in a binding manner, because what you can do yourself, you can do by an agent, can't you? A. Yes, sir.

Q. If you have a large factory, an involved risk, in the city of Buffalo, it would not be unusual for you to hire an insurance broker, a man who knew how to get that property covered properly by a lot of concurrent policies, wouldn't it? That would be quite natural, that you should hire a broker to take care of that? A. I never knew a property owner to hire a broker in Buffalo. The broker goes there and offers his services.

Q. Well, take New York. If he commissions that broker to go to London, or to go to Europe to get him insurance, that man can go there as the agent of the insured, can't he? A. I think he can go there; yes.

Q. What the man can do by himself he can do by an agent, too? A. Yes, I suppose.

Q. Isn't it possible that the statement you make that there is an agent of London Lloyds soliciting business in the Buffalo market no more than some man who knows he can take a risk to Lloyds and get it covered? A. The circumstances were these: A prominent brokerage firm of this city sends this man directly from this city to Buffalo, and satisfies this man it is for his interest to give him the business. The correspondence is done through a dummy office which this brokerage firm has, I think, in Jersey City, and the business is transacted ostensibly there through that dummy office, which, upon investigation, it was found to be, but like that it enabled him to get into the business.

Q. I am glad you spoke of that. Then if you passed a law here to tax brokers upon premium income, this man who was acting for the assured by taking the insurance outside of the State, you would not have gotten — you would not have caught that brokerage firm even under such a law, would you? A. No, but I would have passed a law like they have in Ohio.

Q. What is that? A. Collected of the owner. He ought to pay it. He gets insurance so much cheaper.

Q. That is the same kind of law that Governor Hughts vetoed as being unconstitutional about two years ago, was it not? A. You ought to try a better one the next time. It is right, isn't it? It is fair. Now, can't we have a law that will make it legal?

Q. But that point is, that I am trying to bring out from you —— A. (Interrupting.) I know.

Q. Is a concession that is substantially impossible to provide against all known inequities in insurance companies, and that is one of them? A. I am not willing to admit that the great Empire of the State of New York cannot protect its citizens and treat them fairly. Of course, it is not easy, but there seems to be some way — it seems to me there should be some way in which each man should bear his proportion of the insurance tax.

Q. Well, it may be that the State may have to take the assertion of the companies that they are doing the rating business on the square, and that the State should not interfere with that rate-making institution, and if that is so, possibly the companies ought to stand these other inequalities as a *quid pro quo*? A. Probably they would.

Judge Bruce: Yes. I think they would be willing too.

By Mr. HURRELL:

Q. Have you anything else, Mr. Woodward, you wish to bring before the attention of the Committee? A. There was a number of things I thought of, but it is getting late. I am not sure whether there is anything. I would like to file with the Committee, if you please, a copy of the resolution adopted by the National Association of Local Fire Insurance Agents at its last session.

Q. On the cost of fire insurance? A. Yes.

Mr. HURRELL: I offer it as an exhibit.

The paper referred to was marked Exhibit No. K-1 in evidence, ordered spread upon the record, and is as follows:

"THE COST OF FIRE INSURANCE.

Declaration adopted at the annual meeting of the National Association of Local Fire Insurance Agents, at Chicago, September 14th, 1910.

That fire insurance costs more than is necessary is admitted. The reasons are not generally well understood. Theories for its reduction are not wanting, but the practical solution of the problem bristles with difficulties.

The greater part of the cost of fire insurance is the losses which could and should be reduced one-half. This would lower the cost of insurance at least thirty per cent. Such a reduction would not be a hardship to any one, but a distinct benefit to all. Insurance companies, their local agents, and other representatives are doing, and will continue to do, more than their share of the work for the reduction of fire waste. The responsibility for this excessive drain upon the resources of the country rests upon the property owners and voters. The conservation of the resources of the country represented by buildings and merchandise is of even greater importance than the production of our forests and mines. Good building codes and fire prevention statutes, coupled with fire marshal laws, would substantially reduce the fire waste, and we recommend to all State associations the heartiest co-operation in efforts to pass such legislation.

Another factor in the cost of fire insurance, and one that is unnecessary and iniquitous is the payment of dishonest losses,

and the over-payment of legitimate losses. This robbery of all other premium payers amounts probably to about twenty per cent of the losses paid. For this part of the cost, the fire insurance companies and their representatives are not reponsible. Upon public opinion, which smiles upon and often encourages those who 'soak the corporations,' we must place the blame. It is a notorious fact that the defense of unjust claims by fire insurance companies costs more than the claims themselves, even when the companies win. When they lose, the cost is doubled. The public sides with the claimant, right or wrong. So powerful is the injustice of public sentiment in this matter, that should a company contest every questionable claim, it would soon be out of business.

The taxes imposed upon insurance in excess of the amount required for the proper supervision of the business is not part of the cost of fire insurance. The legislatures, instead of collecting direct from the property owners, this excess diverted to other purposes, require insurance companies to collect for them by adding the amount to the premium. Certainly for this part of the premium no one engaged in the fire business is responsible.

The legislation and rulings of the States add considerably to the cost of insurance. One of the most indefensible laws is that prohibiting the co-operation of companies. The requirement that each company must employ men to do work that one set of men could do for all the companies, is an economic absurdity. For such unnecessary burdens imposed upon the managerial or general expenses of the business, and which add to the cost of fire insurance, those engaged in the business are not responsible.

There is undoubtedly some extravagance in the managerial office and field work of companies, which adds a little to the cost of fire insurance.

In the face of the constantly increasing cost of living, and the general increase of wages in other branches of business, the suggestion that the wages of local fire insurance agents should be reduced by a cut in the rates of commission for the avowed purpose of reducing the cost of fire insurance, without reducing the number of unnecessary agents, and other forms of illegitimate competition, is not entitled to unqualified approval. Local agents generally are experiencing a reduction in income, because of nat-

ural and proper reduction in rates, and because of unnecessary competition, which is not off-set by the increase in insurable values, and they naturally object to a further reduction so long as such competition exists and the cost of living is increasing. When a risk paying two per cent is sprinkled, and rate reduced to twenty cents, the agent receives one-tenth of his former commission. This reduction in the agent's income is a proper evolution of the business to which the agents make no objection. Agents do not object, however, to the reduction of their incomes because of the appointment of unnecessary agents and because of other forms of illegitimate competition.

Agents cannot afford to accept lower commissions without a reduction in competition, and in our opinion the commission now generally paid to agents in some sections of the country, is not an adequate compensation for the services expected of them. This Association can see no just reason why the agents in the south and east should be called upon to work for a lower compensation than that paid to agents in the north and west. We deprecate the excessive commissions paid by some companies in cities, and we believe that the abolition of dual and multiple agencies would enable all companies to adjust their sole agency appointments on a basis which would result in a reduction of the cost of insurance.

The National Association of Local Fire Insurance Agents, desires to assist in conserving insurable values, in preventing fraudlent claims, in reducing excessive taxation, in repealing laws forbidding co-operation in economical administration, and in eliminating unjustifiable expense in conducting the fire insurance business."

Q. That sums up what the National Association thinks ought to be done to reduce the fire waste? A. That was a unanimous declaration of the largest body of insurance men in the world. I would not take the time to read it, because it is not worth while now.

Q. Have you anything else? A. I am sure there were many things going through my mind when we were sitting there, but I cannot recall them now unless you have some other question. I have to go home to-night. I am sorry I did not come on earlier,

but I may think of something else, and I might send it to you in writing, Mr. Hurrell.

Q. You might; yes. A. I would like to emphasize my theory, which it seems to me has not the co-operation of the State, that the insurance companies reduced the fire waste. Now, it is a strange thing I have experienced, and my experience is the same as everybody else's, that every time we write a man's insurance, we go over the schedule and go over his plant, and see if there is something he can do to make the fire less liable, and I want to correct the statement — I think that you gave undue prominence to what Mr. Tapping said. From the beginning, everybody connected with the insurance business has been trying to reduce the fire waste in the very start, fifty years ago. A man says — I want his insurance — and a man comes up and says, "I cannot insure you with that stove in that condition. I cannot insure you with that chimney. You will have to fix that, or I cannot do it," and every inspection that has ever been made by special agents, or anybody else,— special agents say, "We cannot keep on that risk down there, unless that man improves it." By improving it under our schedule he reduces the rate, unless it was a case of accumulation of waste, and we penalize that. We go into a big department store and find it is continually full of boxes, and all sorts of rubbish, and we say to the man, "clean up." If he doesn't clean up we add twenty-five cents to his rate, and the whole policy of the insurance fraternity, from the biggest to the littlest, from the beginning of time, has been to do all they can to decrease the fire waste. Now, in our association, we go so far as if we hear of a man starting to build; if he is somebody I know, or somebody else, we say, "Here take your architect that made your plans to the underwriter. You had better do it; it would pay you in rate as well as protection to your neighbors." But I am sorry to say that in almost every instance where we suggest a thing that it will cost a man something, he does not seem to appreciate the fact, which he ought to be willing to do it for the sake of preventing fire waste, but he says, "How much will I save?" And it seems to me it is important the State should go into it and help us out in that.

Q. That could be helped out by a more careful system of building laws? A. That is being done generally, but that is being done by municipalities; I do not know whether you could do it in the State or not, but if the work of the boards everywhere and inspectors everywhere were supplemented by the work of the State, it would tend to the reduction of the cost of insurance, of two per cent in the commission, or one and one-half per cent in the commission, or even the reduction in the premiums, admitting there is some excess premium on this preferred business, it is simply a drop in the bucket compared with the thirty per cent on the cost of insurance which I think could be reduced in this State in ten years. The cost of insurance would be reduced, yes, more than that. The rates would go down without any action on your part probably ten to fifteen per cent. They are going down every year. You take any company's average. You heard Mr. Cool, for instance, that, of course, is an extreme case. It don't go as fast as that ordinarily, but there is some reduction in the price as a rule.

Vice-Chairman Brough: The Committee will stand adjourned until to-morrow morning at ten o'clock.

(Adjourned to Thursday, December 15, 1910, at 10 o'clock A. M.)

THIRTY-SECOND PUBLIC SESSION OF THE LEGISLATIVE INVESTIGATING COMMITTEE.

Aldermanic Chamber, City Hall.

New York, *December* 15, 1910 — 10 A. M.

Present — Hon. Alexander Brough, *Vice-Chairman.*
Hon. Robert F. Wagner.
Hon. James A. Foley.
Hon. William W. Colne.
Hon. Frank L. Young.

Hon. M. Linn Bruce, *Counsel.*
Alfred Hurrell, Esq., *Assistant Counsel.*

Vice-Chairman Brough: The Committee will be in order.

P. B. Kiernan, called as a witness, being duly sworn, testified as follows:

By Mr. Hurrell:

Q. Where do you reside, Mr. Kiernan? A. Albany.

Q. What is your business? A. Fire insurance agent.

Q. How long have you been in that business? A. Something over twenty years.

Q. In this State? A. Yes, sir.

Q. At Albany? A. Yes, sir, at Albany.

Q. You were present yesterday afternoon when some of the other local agents of the national association were on the stand? A. Yes.

Q. What companies do you represent at Albany? A. Royal, German American, National, Hanover, New Hampshire, American; a string of others.

Q. Are you an officer in the National Association of Local Agents? A. Yes; vice-president.

Q. Are you on any of their committees as chairman? A. Not as chairman.

Q. You are aware that the Merchants Association complains here of the expense of doing business in fire insurance. I want first to draw your attention to the question of expense as it is related and interwoven with agents,' commissions. Do you believe that the business can be conducted upon a lower commission basis? A. There is this feature about the business that I think needs consideration. You have got a peculiar situation in New York State. Here in New York city you have got a vast combination of values where you have an insufficient amount of insurance to supply the demand. Outside of New York city, with the possible exception of Buffalo, you have got insurance capital five times over the demand. Now, in all of those cities the big companies like the Home and Hartford and Royal and all of those companies have the natural preference in getting the business. They have the ability to swing big lines of insurance and the agents like to represent them, and all of those things. There are a great many companies that are entered in New York State that have simply a moderate capital, a surplus; they meet the requirement of $200,000, and have a little surplus over that. There is no particular demand for those companies on the part of the agents outside, because they do not need them in order to carry their business, and in order for those companies to get agents they frequently have to pay more commission than the big companies do, and they usually pay about five per cent more also. If the State should make a law or pass a law absolutely limiting the commission to any fixed price you would discriminate against those companies, and I believe the effect would be that those companies would retire from the State because there would be no particular point in their coming in here to assume the great values of New York city with all the danger of conflagration. If they were debarred from distributing risks and getting some of the premium income from the rest of the State where that conflagration hazard does not exist.

Q. Putting it in another way, as I understand you —— A. You would be making a monopoly of the insurance business on the part of a few big companies.

Q. And driving the small companies out of business? A. And driving the small companies out of business.

Q. You say the reason they have got to be in the field up State is that because that is where the non-conflagration hazard is? A. Surely. An insurance company is different from any other public service corporation, if you are going to class them as a public service corporation. Anything that can prevent greater costs and value and all that, the more they can concentrate the business the better off they are. In an insurance company the essential element of safety is where they can divide and distribute their liability.

Q. So they go up State where they are not needed in order to get business to give them an average of properties where they are insuring heavily down here? A. Yes, surely.

Q. Do you think there is anything that the State can do in the way of legislation to bring about a more equitable distribution of this commission; in other words, do you think that the present condition is the last word on the subject? A. Well, of course, the proposition that is being mooted to-day is the right of the State, or the feasibility of the State, assuming the control of the rates, either by making rates or having a Board of Appeal to make those rates. Now, I think that that would be a very disastrous proposition. If the State either assumes control or had a Board of Appeal it would be necessary to have some measure of classification, classification as to the premiums received from various classes and losses under those classes. That looks like a reasonable proposition, and one that would be the basis of any adjustment of rates; it would not show anything in my judgment for various reasons; one reason, for instance, is this: That you have got a continual change in industrial conditions, that the classifications of yesterday or a year ago would not be of any value to-day. For instance, within the last two or three years you have got the introduction of the automobile. That has created garages all over the country in the heart of business districts. You find thousands of barns that were formerly barns that are now used for storage of automobiles, with gasoline, and all those things, which has created an enormous hazard both in itself and as a result of conflagration. All those things would have

to be provided for in a schedule. There is another case that comes to my mind that shows the lack of value of the classification scheme. Probably the most important invention that has been designed that has tended to reduce losses and improve insurance conditions has been the automatic sprinkler, and a recent invention has been the electric fans. We had a case in New York of a fur storehouse where they stored furs in the summer time; a fireproof building, one of the best equipped, and looked upon as one of the best risks of its kind that we could get, it had sprinklers and all those things in; a small fire occurred. The hot air had got in this place, and those fans were working, and the operation of those fans drove the hot air all over the place so the sprinkler heads were opened and the companies sustained a $700,000 loss. What good would a classification be on that class in view of that experience. If we were going to charge for storage hereafter on the basis of that loss you would not get enough out of it in a thousand years to pay for the loss. You cannot absolutely fix any classification, and say that it is the right thing. I know a case, for instance, of farms; I knew of companies writing farm business and paying out $300 for every dollar they received; another company writes ice houses, and they said after some years of experience, well, no, we won't write any ice houses at less than three per cent, the normal rate, the going rate of the company is about two and a half per cent. They got some business at three per cent. The business they got at three per cent was worth ten per cent. They lost money on that. No matter what classification you get, no matter what scheme you get, on all these things the question of judgment has finally got to enter into it. Your classification does not amount to anything, except as a general guide, to establish a certain fixed price, you might say, or fixed condition governing that class, and then the selection has got to be made after that is determined.

Q. Then you feel that the State board if it put into operation a uniform classification would be basing its judgment more upon something that was shifting and uncertain? A. Yes, surely.

Q. And that you would be having probably men not completely trained using that misleading information to arrive at a result that would be altogether destructive? A. Why, surely.

You have got another feature, I think, in connection with this question of State Rating Board or Board of Appeal, and that is this, assuming that the men selected would be competent, able and absolutely honest, and I think that those men can be obtained all right, you have got this situation, that every city where they had a favorable loss experience, say, take, for instance, New York and Albany and Rochester and Buffalo, and so forth, would go before the Committee and show their statistics for ten years saying, "Here is the result in our city, we should get a reduction in our rate," and there would be a good deal of merit in that claim, and it would seem natural, it would seem human nature that the Committee would all desire to be fair, would recognize that claim and those statistics, and grant a reduction. Now, you would not get the companies in the cities where they had a disastrous experience to go before the board and ask it for increased rates, and it is pretty hard for the commission to recommend increased rates. We had that experience in Rochester, as you know.

Q. In what? A. In Rochester, a couple of years ago.

Q. I will bring you back to that? A. I am sorry I spoke, but now, if you get a condition of that kind, and you are going to reduce the rates in all the favorable districts and not increase them in the places where the experience has not been so good, I think you are going to imperil the very thing which the Insurance Department was designed for, safety first, and if you are going to reduce the rates on all the profitable classes and let them go on the unprofitable classes the companies would be bankrupt.

By Judge Bruce:

Q. Yes; but assume the companies make the rates in the first instance, take the initiative, and the board of review simply supervises the rates in the cities where the hazard was greatest, the condition, of course, would fix the rates at such a point that they would feel would be safe? A. Judge, pardon me, I question if they can do that, for this reason, that if you take any one city where they had a disastrous experience and attempt to base your rates on the experience of that city you would drive them to a prohibitive figure; the merchants cannot afford to pay it and they will seek it outside or do without insurance. In other words, you

have got to create the whole average over the whole country as much as possible. For instance, take a fire in New York city, say they had a $50,000,000 loss, which would be an easy matter, if the companies succeeded in an attempt to make the rates here in New York based on that $50,000,000 conflagration they would drive the merchants out of business.

Q. That is true, unless the great loss was due to some dereliction on the part of the municipality in affording proper fire protection.

Mr. HURRELL: You would still drive them out of business even if that was true? A. Yes, surely.

Q. You would either drive the merchants or the people of the city to a position where they could not take insurance, it would be prohibitive, or else you would drive them to correcting the defect which existed in their fire protection? A. Take, for instance, the experience of San Francisco. That was not a condition that was due to any particular dereliction there; a $200,000,000 loss. The Pacific coast had been one of the most profitable sections of the country for years. That $200,000,000 loss wiped out all the profit they ever obtained there. If the companies attempted to collect that loss from the Pacific coast it would be an impossible condition for those gentlemen.

Q. That could not be done, because that was not due to any lack of foresight on the part of the municipal authorities there; that was an act of God for which they were not responsible? A. Surely.

By Mr. HURRELL:

Q. Your point is that to attempt to collect the money in that particular locality, if they attempted to do that it would be impracticable? A. No one advocates but that if you decrease the rates in the profitable sections and do not increase them in the other you will imperil the safety of the companies.

Q. You were stating your reasons why you thought that the supervising board would be misled by various things; I understood you to say that one of the things that they might be misled by, that a city that had a favorable experience would come before the board and ask for a reduction and show their favorable ex-

perience for getting it with other communities which had a favorable experience; is that your position? A. Yes, and that condition is recognized by the companies to-day in making their rates, the experience of the city.

Q. You mean, the experience of the city itself? A. Of the city, the fire experience; yes.

Q. Isn't that one of the criticisms of the companies, that they have not these statistics to explain their base rate? A. Yes, of course, it must be in itself, in its very nature, an arbitrary proposition on the final analysis. There are certain things they know, and certain things that have entered into the act of establishing a base rate for a city.

Q. In other words, you say that whatever evidence must be produced, in the final analysis, to make a rate, that it has got to be, according to your view, expert evidence, rather than anything that can be demonstrated? A. Yes, surely, a matter of judgment.

Q. Now, don't you think, however, on this classification, if the companies kept their classes, not by localities, so as to mislead on the subjects you have just mentioned, of localities, but kept it in classifications the country over, that the companies would be better able to show the causes why rates were as they were in certain classes; wouldn't it help them; wouldn't it help them in bringing forth their expert evidence on the subject? A. I will answer that by again referring to this fur loss.

Q. Yes? A. In their experience, for a number of years, the premiums on furs were small, and the values not very large all over the country. Now, you take one loss of $700,000 and it absolutely ruins any form of classification you have got.

By Judge Bruce:

Q. You spoke of the fans there; I didn't understand that? A. The electric fans drove this heat away that arose from a small fire.

Q. What started the fans going? A. The fans were going all the time to keep the air in circulation there.

Q. In storage? A. Yes. But it a curious combination, however, to have a thing that was designed for safety and is recognized as an element of safety, to create this loss.

Q. That was to prevent spontaneous combustion? A. Yes, and

this loss itself would have been trifling if it had not been for the sprinklers.

By Mr. HURRELL:

Q. Do you see any difference, as from the insurance point of view in particular, between a board of review that has the power to reduce a rate that has been made by the companies, and a board which in the first instance fixes the rate? A. Yes, there is an advantage in the action of a board of review. Now, whether that advantage, — that board of review would undoubtedly create a large element of cost to the State, but that has nothing to do with me in particular, and would also create an expense to the companies, a great expense to the companies in going before the board of review, bringing their evidence, etc. Whether that board of review would be sufficient to compensate, would achieve sufficient results to compensate for the cost or not, is a question. I don't think they would. And again, while on a straight specific risk, a man has alleged his rate was too high, it would be right, the board of review would naturally have the right to determine whether the rates in that given city were too high. And that, again would bring in the question of the experience of the city, and they would claim it was due to their superior fire department, superior construction, superior water works, and all those things that created those things; and it might be a question of good luck, yet the board of review would naturally give that consideration.

Q. I should think they would be open to the same dangers, probably, as the others, the original rate making board? A. Yes, sir. I feel that the whole question is one that is bad. I think it is particularly bad for New York State for two reasons: In the first place, whatever New York State does in the matter will naturally be followed more or less by the States throughout the country. Now, New York State is the home of the insurance interest. It is a dominant interest in New York State. These laws are unquestionably going to harass the insurance business, so in the ramifications of our home companies throughout the country, we are aiding and would be aiding in passing a measure that was going to harass a thing that was an important interest to this

State. I think, from a selfish point of view, that New York State, if for no other reason, should not attempt to pass any such laws.

By Judge BRUCE:

Q. Don't you think, if a State permits combination, the citizens have a right to insist on review? A. Theoretically, Judge, there isn't any question in the propriety of that position. But it is the difference between theory and practice.

Q. When you come down to the practical side of getting at results, and how to obtain it, and the wisdom of doing those things, then I would have to say that the theory does not work out in practice.

Q. I know, but are not the services of expert rate makers open to the State, just as much as they are to the companies? A. Yes, just as much.

Q. Isn't it probable that the State, either by election or appointment, would create a board that was just as experienced in rate making as the companies themselves? A. Just as much.

Q. Then, why wouldn't the interest of the companies and the interest of the citizens be just as safe in a board of review as they are to put the whole matter, as it is now, in the hands of the companies themselves? A. Well, there are several dangers, I fear. One question is the manner of the plans in a city of given experience, of a given city. Another is the question of protecting our home institutions. They bring in a great volume of money to this State, and the profits on the business are not extraordinarily large. I do not think we should harass, or attempt to help to harass, the operations of our own institutions.

Q. Why should exceptions be made in the insurance business, rather than in any other industry, when it is a fundamental principle, absolutely sound, that where a government permits a combination for the purpose of controlling the price on a necessity, it ought to provide for a board, or governmental agency, with the power to review; that is a fundamental duty it owes to its citizens, is it not? A. In answer to that, Judge, I can only say this: That is a fundamental principle and a right theory, unquestionably. You have it worked out in the case of life insurance companies, railroads and things of that kind. In life

insurance their statistics are known; the conditions are constantly tending to improve, the life insurance risks, generally due to new sanitation methods, and all those things. In your railroad you can absolutely prove your cost. The only question they have got to bother them there is the physical value, etc., but they can absolutely prove their cost. Now, your insurance proposition is an entirely different thing. The other Public Service corporations are well warranted in saying our experience last year was so much, our cost was so much, and they are fairly right in approximating their cost, on the theory that next year the cost will be the same. The insurance corporation, the fire insurance corporation, will know their experience on this class of business, on all their business, for the preceding year, but even so, they haven't any warrant in assuming that their experience next year will be the same. I have seen the losses on classes, — for instance, we make a specialty of ice-house business; we do most of that business along the Hudson, and we have made good money; one year we may have a ten per cent loss ratio, and the next a three hundred per cent loss ratio.

Q. I know it could not be based on one year, two years or three years; it must be over a certain period in which the experience might be said to be more uniform, as affecting the business of the future. You have spoken of life insurance. What would you think if a State permitted all the life insurance companies to combine and fix the rates, on the certain general principles that the life insurance people go by, and yet we don't know but what Asiatic cholera will come in next year and sweep off such a percentage of citizens as to make them bankrupt; they don't know but what there will be a scourge of smallpox, or some other scourge. I don't know of any other business that the State permits to combine to control a necessity, and fix the price, that it does not insist on regulation, except fire insurance. A. That is true.

Q. I don't know why that exception should be made of fire insurance. It presents some difficulties peculiar to itself, but they don't seem to me to be peculiarities that the State cannot solve. That the State could command just as experienced raters as the insurance companies could, and it is fair to assume those

men are not going to act arbitrarily in any matter, if they have the right to review in a case of appeal on a citizen's complaint that his rate is too high, the companies fixed the rate in the first instance, and you would not think you could say they would do it arbitrarily? A. No, I will grant all that, Judge, but I still contend it would not be of any particular value to the State, or to the citizens of the State. And while I grant the soundness of your theory, I do not believe in practice it would work out. Furthermore, I think the whole proposition of attempting the regulation of rates, and the regulation of commissions, is not getting at the fundamental proposition. The question is all based on loss, that is all. We are constantly being compared with the foreign countries, showing that our loss ratio is 20 per cent, or 20 times theirs, or 15 times theirs, or whatever the countries may be. It would seem to me it was a part of wise statesmanship to attempt to determine what were the causes that lead to those low rates over there. Why is it that England, Great Britain, can operate with forty companies, with values in London, which are just as great as they are here? Where they have only forty companies, we have two hundred. It would seem to me they should get at that situation. Now, perhaps, you may have some ideas on that. Now, here it is constantly being urged that the cause of the difference of rates, particularly in this country, are due to construction, superior construction, etc. We grant there is a superior construction. I think that is more than off-set by our superior fire and water departments. London's wouldn't be any more good in New York than Albany's department would be. Therefore, there must be some other reason that accounts for them. The best thing I can locate, is their laws holding a man responsible for the fires. Now, here wouldn't it be advisable, and it certainly would produce lower loss ratio, and lower rates. There is no reason why the State should protect an incendiary, a vicious person, or one who is criminally careless. The man who is criminally careless is just as bad as the incendiary; he endangers the neighbors' property, he endangers life, and all that. What would be the objection to saying, to having on the statutes, that in the event of a fire originating in a man's premises, that in the event of loss, he could only get 75 per cent of his loss, or 80 per cent, or what-

ever it might be. That would not be an original proposition. We have done it in the paper mills up this State, and it saved losses.

By Mr. HURRELL:

Q. The companies put that rule into effect? A. They put it on the paper mills. I think it is the three-fourths clause they call it, and it had that effect there. Now, if you can reduce the losses, you will solve a whole lot of this problem. Because one of the greatest difficulties we have in the situation is this, and as I say, outside of New York, as a vast number of companies all seeking an agent. A. Leading agent only wants to represent eight, ten or a dozen companies, whatever may be necessary to take care of their business. All other companies are a sort of burden to them, added office expense, responsibility, and all those things. If a measure of that kind could be designed, that would materially reduce the premium income, and you would reduce the number of companies, and reduce the number of agents, and following that, rates will reduce and everything else. That would be getting at the fundamental situation.

Q. That is a flat proposition, as I get that, to prohibit by law a man from carrying a policy of insurance above three-fourths of his value? A. Not prohibiting the insurance.

Q. Prohibiting him getting it? A. No, the point is here; if a fire started in a man's premises, and it was due to criminal carelessness, and he might prove a loss, say, of $10,000, and he had $10,000 insurance, and it was proven by either the fire marshal or whatever authority you chose to give that power to, that it did originate in that man's premises, that would prevent him getting more than 75 per cent of his proven loss, even though he had insurance to cover his full loss; but you, having your full insurance, you are not penalized in any way by that. Of course, abroad, they would make him liable for your loss, and all that. I don't say I think this is an ideal measure, I don't say I would advocate that.

Q. Your paper mill example, there wasn't any question of their starting a conflagration in their own property there? A. No.

Q. And you say, putting a clause, whereby the owner agreed to receive, in case of loss, only three-fourths of his proven value, that that clause operated apparently to reduce the loss in paper mills? A. Unquestionably.

Q. Leaving the citizen to bear his own loss, whether the mill should be set on fire, or whether he should be so careless that they would catch fire? A. It is immaterial as to the origin.

Judge BRUCE: That is, it enforces a greater diligence, and greater protection on the part of the property owner, to see that a fire should not originate on his premises?

The WITNESS: Surely.

Q. What would you say, in the event that premiums had been paid on a greater amount than three-fourths of the value, to have the companies in that event, in the case of fire, to return those premiums? A. That is immaterial. It would not make any difference whether it was returned or not. The point is you wished to enforce a penalty for protection against criminal carelessness, and so forth; that would be simply an added penalty, if he didn't get his money back. That is a matter of detail. If the original principle is granted as being sound, the details could be worked out.

Q. You referred, a moment ago, in talking of a State board, to the fact, — at least I thought you did — that it was perfectly proper for companies to make their profits in some classes, even if they had to shade the margin of profit on other classes; that leads me to ask you, do you believe that the preferred business is an evil? A. Now, the preferred business; that is a question. The preferred business, we will assume that you mean by preferred business, dwellings. Now, here is our experience on that proposition.

Mr. HURRELL: Now, Mr. Kiernan, will you excuse me, if I withdraw you for a moment?

(Witness withdrawn from the stand temporarily.)

CORNELIUS G. KOLFF, called as a witness, and being duly sworn, testified as follows:

By Mr. HURRELL:

Q. Mr. Kolff, you are here in answer to a subpoena of the Committee? A. I am, sir.

Q. What is your business? A. I am in the real estate and insurance business.

Q. As a broker? A. Yes, sir, broker and agent.

Q. Have you had dealings with the Suburban Fire Insurance Exchange? A. I have, sir.

Q. Where is your office? A. I have an office in the Crabtree building, St. George, borough of Richmond, and one office at 45 Broadway, New York.

Q. Will you relate to the Committee your experience with the Suburban Fire Insurance Exchange, going into details, without questions? A. Well, I have been doing an insurance business for quite a number of years, when in 1908 I was informed that I would have to join an exchange that had been formed down in the borough of Richmond, under the leadership of the fire insurance companies of New York. And I told them that I was quite satisfied with the manner in which I was transacting my business; that my relations with my companies was satisfactory to myself, and I saw no reason for joining any combination, or exchange of that kind which I thought would bring me no good, and bring my customers no good. But my companies informed me that unless I did join the Exchange that they would have to withdraw their agencies, and that I would be unable to obtain the agency of any other responsible company. So I told them, that inasmuch as that was a part of my livelihood that I would, under protest, join the association, or the Suburban Exchange. I was thereupon informed that I could not join unless my protest were withdrawn, and I thereupon informed them that they would have to take my application subject to protest, or not at all.

Q. Have you any correspondence on that subject at all, preserved? A. I have, sir.

Q. Now, will you read the pertinent letters in your corre-

spondence, Mr. Kolff, right on the record? A. A letter pertinent to the subject, which I have from the Suburban Exchange, is a letter from its secretary, acknowledging receipt of my application, signed under protest, and reads as follows: Dated, May 20, 1908. "I am advised by the superintendent of the Fire Insurance Exchange that your proxy sent under protest cannot be accepted, and I am asked to kindly request you to send another proxy, or withdraw the protest."

Thereupon I informed them I would not act otherwise than I had.

Senator WAGNER: What is the name signed to that letter?

The WITNESS: The secretary's name, Gustav A. Barth, secretary.

Thereupon I received another letter, dated May 21st, from Mr. S. A. Reed, the manager of the Suburban Fire Insurance Exchange, in which he writes me: "I have been advised by the secretary of the Board of Fire Underwriters, of Richmond county, of the receipt of your proxy signature to the agreement of said board, with the words written thereon, 'under protest.'

"We advised the secretary of said board that no signature should be recognized which contained any qualification whatever. He has therefore returned the proxy to us; we hold the same, subject to your order. Upon the receipt of an unqualified proxy we will forward the same and return you the one we now hold.

"We enclose herewith the form of proxy we are now supplying to agents, together with copy of rules by which the companies are bound. Very truly yours, S. A. Reed, Manager."

Judge BRUCE: What is the date of that letter.

The WITNESS: The 21st day of May, 1908. Upon my further refusal to comply with their request, I received a letter which was somewhat more satisfactory to me, dated May 23rd, from Mr. Reed, saying, "At the request of your companies, we have now decided to accept your proxy of May 19th, marked 'under protest,' and have sent same to Secretary Barth to attach to the agreement."

Judge BRUCE: The same year?

The WITNESS: The same year, the 23rd of May.

By Vice-Chairman BROUGH:

Q. Are you now a member?

The WITNESS: Yes, sir; I am now a member, under protest.

Mr. HURRELL: How do your relations with the Exchange work out?

A. Well, they have worked out, under compulsion ——

Vice-Chairman BROUGH: Under protest?

The WITNESS: Under protest, and under objection.

By Mr. HURRELL:

Q. You have seen the rates advanced in your territory? A. I have seen the rates advanced and the commissions reduced, I am sorry to say.

By Judge BRUCE:

Q. And what advance have you seen in rates in recent years? A. Well, now, I could not express that exactly in percentages, because the rates cover a variety of property.

Q. State residential property first, say over a period of five years? A. Well, now, I cannot give you any reliable information about that.

Q. Do you recall what the rate was in residential property in the borough of Richmond prior to the organization of the Suburban Exchange, which was about 1907, if I recall? A. Well, it varied according to the danger, or according to the risks.

Q. Well, how much advance has there been since the organization of the Exchange, would you say, generally; approximately, only? A. Well, I should say, generally speaking, there has been an advance from about — anywheres from 30 to 50 cents in the ordinary risks.

Q. What percentage would that be? A. Well, 20 cents or 30, would be two-thirds.

Q. From 30 to 50, you say? A. 30 to 50, in some cases; yes.

Q. What excuse, if any, or reason for this advance was given? A. The reason that was given by the companies was that they did not make profits which were satisfactory to them.

Q. Now, has there been a similar large advance in the rates on mercantile risks? A. There has been a large increase all along the line.

Q. And would you say it is as large as the increase on residences? A. Yes, I would say it would be.

Q. Now, what decrease has there been in commissions since the organization of the Exchange? A. From 25 to 20 per cent.

Q. On all risks? A. All ordinary risks.

Q. What are the commissions paid now on preferred risks? A. Well, now, I do not know exactly, really, what that rate is, because I do not pay as much attention to the insurance branch of my business as would make it necessary for me to give that information.

Q. Well, then, the reduction in commissions has not been reflected in a corresponding reduction in rates, has it? A. No, I do not think it has.

Q. Would you prefer to do business under the old system that existed prior to the organization of the Exchange, or under the rules and regulations of the Exchange? A. I would prefer much to do it under the old system.

Q. Why? A. Because I was free from a control which is now exercised over my actions, which, in the first place, is distasteful to me. In the second place, the present arrangement makes it absolutely necessary for me to, or rather places me in a position where I cannot protect myself against companies which are not in the Exchange.

Q. Is there competition in the field? A. There are a few companies which are not members of the Exchange.

Q. How many? A. That I do not know.

Q. Very few, are they not? A. Very few. I think three or four.

Q. The evidence here, I believe, showed that the Suburban Exchange controlled about 90 per cent at least? A. I should say it did.

Q. Of all the insurance in the suburban district? A. I only know of three or four, or did know of three or four companies which were not members of the Exchange.

By Senator COLNE:

Q. Does the rules of the Exchange prohibit your doing business with them now? A. I am not allowed to do business with any other companies.

By Judge BRUCE:

Q. That is, having signed the two pledges? A. Having signed the pledge or agreement under protest.

Q. Now, you say that you are not able to protect yourself from this competition? Is this competition such that you are suffering from it? A. I think so; yes.

Q. Are they writing at a lower rate? A. They are.

Q. Are they paying higher commissions? A. That I do not know from my actual knowledge, but I think they do.

Q. What are your views in relation to a proposition which has had some support, that fire insurance brokers and agents should be licensed by the State? A. I think that would be perfectly proper, just as I am licensed as an auctioneer.

By Mr. HURRELL:

Q. Is there anything else you wish to add to your statement? A. Nothing else.

PETER D. KIERNAN, recalled as a witness, testified further as follows:

By Senator COLNE:

Q. You are somewhat familiar, I should judge, with life insurance, and I asked —— A. (Interrupting) Not particularly.

Q. Well, I ask with this in view: You have made the statement that if the State would pass certain laws in the way of controlling fire insurance business, that it would be harassed, or, in other words, you practically said that you would fear that it would harass the business? A. Yes, sir.

Q. Now, in the last few years the Legislature has passed certain laws controlling life insurance? A. Yes, sir.

Q. Now, do you consider those laws that have been passed harassing? A. I cannot answer that. I am not familiar enough with the life insurance business to answer that, but can say that similar laws would be to fire insurance companies.

Q. That such laws as have been passed would be harassing? A. To the fire insurance interests; yes, because one is a scientific proposition that can be demonstrated; the other mere guess; judgment.

By Mr. Hurrell:

Q. That is coming back to the statements sometimes made that there is a mortality which is almost certain in life insurance? A. Yes.

Q. Taking a large number of persons over a certain number of years? A. Yes.

Q. Whereas in fire insurance, on account of the variety, of necessity, that go in to create the hazard, you cannot get at it with the certainty that they do get at the mortality in life insurance? A. Yes; continually changing.

(The stenographer repeated the last question and answer of the witness before he left the stand as follows):

"Q. That leads me to ask you if you believe that the preferred business is an evil? A. Now, the preferred business, that is a question — the preferred business; we will assume that you mean by preferred business dwellings" — at which point Mr. Hurrell interrupted the witness.

By Mr. Hurrell:

Q. I will continue from there. Will you continue with your last answer, Mr. Kiernan? A. We have, I assume, about the largest business in Albany. We issue something like 5,000 policies a year. We find that it costs us to take care of each policy about $1 per policy for clerical work and office rent and everything of the kind, and $2 premium must be put through exactly the same procedure as a $5,000 premium. It is the multiplicity of these policies that makes the cost of carrying them. Our experience last year was this: We issued 1,250 policies which bore

a premium of $5 or less, and we have a general average business. Now, that was 25 per cent of our total number of policies and showed that the average premium in these cases was $3.50. When I say a dollar cost, I do not mean brokerages at all. I do not include brokerages at all, but just office expenses. On those 1,250 policies we received, on an average, under 15 per cent, or 52 1-2 cents on 1,250 policies, and yet every one of these policies cost us a dollar to carry.

Q. Let me ask you, so as to keep it clear in my own mind: You say the 1,250 policies issued, you found the premium on them $5 and less? A. Yes.

Q. And the commissions on those were only 15 per cent? A. The net to us.

Q. After paying commissions of soliciting? A. Yes, of course a part of that was brokerage.

Q. But you found that it cost $1 a policy? A. Yes, and we received 52 cents a policy on 25 per cent of our business.

Q. Received what? A. We received 52 cents a policy on 25 per cent of our business and the actual cost to us was $1 per policy for caring for that business. Now, in the old days, Oh, say up to 10 or 15 years ago, and in some local offices even more recently than that, the agents used to get what was known as a policy fee of a dollar or a dollar and a half per policy. That does not enter into any statistics you have showing the expenses of the business, or commissions or anything of that kind. It went purely and simply to the agent. To-day that is done away with. To-day on that portion of the small business, and you can see as to the number of policies it represents quite a large item — it does not represent so much in regard to premium, because the premiums are so small. But it is the large element of work and labor, and on that we lose money. It would have added so much cost to that class of business.

By Senator WAGNER:

Q. You contend that the agent loses money on it? A. Yes.

Q. But the company does not? A. Of course I do not know the company's side. It has always been understood that that has

been a profitable class to the companies, but that has been our experience on that class.

Q. Why do you carry it? A. We necessarily must. It is a class the companies desire and we do a big business of a general nature, hazardous lines, and if they want this other kind we make up our profits on the high-rated risk, where we lose on these low-rated risks or small policies for $5 or less.

Q. The companies are making on that preferred business, are they not? A. I do not know that I would put it that way, exactly. It has been so long understood that it was desirable to have an intermixture of the dwelling-house business with the other that there is not any particular occasion for inquiry.

By Judge Bruce:

Q. You spoke of risks of $1,000 and less? A. Yes.

Q. That is not what you would call residential risks, are they? A. Oh, yes. We issue 25 per cent of our business at a premium of $5 or less. Now, that would mean $1,000 policies or less.

Q. Was that insurance upon residences or contents of residences, belonging to tenants? A. I presume it would be fair to say that most of that was on contents.

Q. Residences would be undoubtedly $1,000 up to $10,000? A. Yes, well——

Q. (Interrupting) That would cover residences? A. Surely. Well, if we take as business residences of $2,500 insurance, and there are many of them insured for $2,500, brick dwellings, we cannot make a premium of $10 in three years, and even that would not make us more than break even on our cost. I do not believe there is a cent of profit from the agent's standpoint in that business.

By Mr. Hurrell:

Q. What is the commission that the companies allow on it? A. Our commissions average 20 per cent on business properties and 25 per cent on others; averages about that.

Q. Do you believe in the theory that the qualifications of an agent should be defined by the statute? A. It would be highly

desirable if something of that kind could be adopted, and yet I think it is almost impossible due to the fact that the gain of the number of companies — here are these companies. There would be a demand for 50 agents that have the business, and there are 125 companies that want admission; want representation. Now, are they going to be denied representation throughout the State? If they are you are up to the proposition that they will not enter the State, and New York merchants will not get protection. It is a mighty hard matter to solve by any such lines as that.

By Judge BRUCE:

Q. I presume if an agent represents about a dozen good companies that is about all he can handle? A. Yes, that is about all he can handle, Judge.

Q. Would there be any advantage in having 50? A. No; no advantage at all; a disadvantage.

Q. Mr. Markham, of St. Louis, whom you know, I suppose by reputation? A. Yes.

Q. Made a suggestion last Tuesday that it would be a good thing for the business if companies were not permitted to have more than one general agency or one office in a community? A. Well, of course that would vary according to the size of the community. It would be unfair to treat New York the same as Albany.

Q. Well, without going into details —— A. (Interrupting) In Albany we among ourselves, we agents among ourselves restrict one company to one agent. We only permit them to have one representation.

Q. Do you know what the other conditions throughout the smaller cities of the State are? A. I do not know.

Q. Then that is a matter the agents can regulate themselves if they wish? A. They can regulate it themselves; yes.

Q. And the National Board can regulate that? A. I do not know about the National Board, but the local board can.

By Mr. HURRELL:

Q. But there are some places in New York where the New York companies are doing business with western men — the west-

ern men here before the committee testified that they do have two or three agencies in comparatively small cities? A. Yes.

Q. Apparently there is where the agents could not get together? A. That is about the size of it.

Q. And I suppose it is quite human, if a man wanted to have a big business that he would get as many companies as he could get to come to him? A. Yes, sir.

Q. And do you think it would be a good condition to have the New York companies prohibited —— A. (Interrupting) Say one to one hundred thousand population or something of that kind?

Q. You think that would be helpful, then, to the agents? They would like to see those conditions prevailing? A. I think so; yes.

Q. Well, to come back to the qualifications of agents, as defined by statute, have you given that any consideration? A. The more consideration I have given it, the more hopeless seemed to be the task of arriving at anything that would be practical.

Q. Then let me ask you about some of the suggestions of your brethren that have been here: Take the idea of examiners; applicants for brokers' licenses or agents' licenses by the State to test their knowledge of the insurance business, and therefore their fitness to engage therein. Do you think that would work out in a practical way? A. No, I do not.

Q. Do you believe in the broker or fire insurance agent giving a bond to protect the persons with whom he does business against him stealing the money they pay him? A. There is such a small amount of that being done that I do not know whether you are warranted in giving that cost or not. It would be desirable. It would be good, but whether the evil is great enough to warrant the remedy is a matter of question.

Q. Would you say that the evil among brokers and agencies in that regard was sufficient to differentiate that business from all others in that particular? A. Of course you can only judge those things by your individual experience. Why, in 20 years I do not think we have had more than two cases of that kind. Now, in New York, I think it has been more widespread. I can see naturally, in the smaller city, why those things are regulated by the people; everybody knows everybody else and that would differentiate it from the larger city.

Q. Well, of course, it would have to be, I take it, a rather extraordinary condition to leave the State to select out fire insurance people, and say, you are as a class so dishonest that we will make you put up a bond before you can do business? A. Yes.

Q. And I am asking if you have, from your observation in smaller cities, or from hearsay, or talking with fire insurance men, come to believe that the evil of dishonest brokers is such as to justify such legislation? A. Speaking from our own local experience, I should say no.

Q. Do you believe the State should license fire insurance agents and brokers in the same way it licenses life insurance agents, or in some similar way? A. I think this, Mr. Hurrell: That it would be desirable — it would be desirable to have some form of fire marshal law, either by the State having a fire marshal, or by the State requiring communities to have a fire marshal; and that it would be eminently proper that if the insurance interests or insurance agents should be obliged to pay for the expense of the fire marshal, in order to get at these other propositions of determining the origin and location of the fire — whether it would be legal for the State to require a certain license fee, varying from $5 to $100, say, or any amount that you wish to name, which should go to that locality for the purpose of sustaining a fire marshal, would be a matter of judgment.

One fire marshal, a State fire marshal, in itself, without a lot of other sub-fire marshals, or sub-agents, is not a practical thing. Now, whether it would be legal for the State to pass a law, amending the charters of the second-class cities in such a way that wherever they allow an agent they require the agent to be taxed so much to go to that support, I think it would be advisable, if it could be done and if it is legal.

Q. Would you say that it would be safe, in case a fire marshal law could be worked out, as to expense, with the idea of having it enforced, which, of course, is the test of its efficiency, to have local agents in communities appointed deputies of the fire marshal? Do you think that that is a practical way of assisting the enforcement of the law? A. No, I do not think so. I do not think so, because you would get a condition of this kind: That the agent that is sort of looking for business, anxious for business

and anxious to promote good will with their assured — well, they would possibly be biased.

Q. When a good citizen burned up, they would not want to be too inquisitive? A. No; surely, particularly if he is one of their clients.

Q. Do you think it would be advisable under a law of that kind to make the deputies of the fire marshal the officers of the volunteer fire department, or of the paid fire department in places that were not large enough, we will say, to support or to get the undivided attention of deputy fire marshal? A. Well, I think that would probably be a good suggestion.

Q. Are there any other classes of persons found in each community that come to your mind, that you could suggest as proper persons to be made deputy fire marshals, if a law were enacted so that they could work that in with their other business? A. Yes; I think that the solution of the fire department for protectors or something of that kind would be wholly desirable; I cannot think of anything that would be an improvement on that.

Q. Now, we have left the agent's qualifications for a minute, but since you interject the thought of the fire marshal law, I want to ask you further: Do you believe if a fire marshal law is passed that one of its provisions ought to be that after every fire, no matter where or who had it, no matter whether a claim was made or not, that an inquest should be had and report made, or do you think only fires should be investigated on complaint? A. In order to make it efficient, it would necessarily require it for every fire.

By Judge Bruce:

Q. Otherwise, there would be discrimination? A. Yes, sir.

Q. To go to another subject for a question that the chairman has suggested: In the event that a policy is canceled for any reason on the motion of the companies, does the agent have to return the premium? A. Yes.

Q. Now, does he also return his commission? A. His commission, yes, unless it be a brokered proposition, and then the practice would be to return to the broker the return premium less

that proportion of the commission which the broker had actually received.

Q. Then in the case of canceled policies on motion of the company, the broker or the agent loses that commission, does he? A. Yes, sir.

By Mr. HURRELL:

Q. How large a fee, speaking of agents' qualifications, do you think it would be safe to impose without doing injustice to a large body of men that are making their living or part of their living by soliciting fire insurance now? A. That again, of course, would vary with the locality. I do not think that in a city of 100,000 that a fee of $100 would be excessive.

Q. And I take it, if the law would be constitutional, you would have that over a graded scale? A. Yes, sir.

Q. In accordance with localities? A. Yes, that would be the only equitable way.

Q. You say $100 in a city of 100,000? A. Yes, that would not be excessive.

Q. Don't you think that $100 might be an injustice to a lot of the small men? A. I don't think so; no. I don't think that $100 would be excessive. Now, $500 would. I would willingly pay $500, but that would not be fair to many other men in the business. I think that $100 would not be extreme.

Q. That is, you think $500 would squeeze out so many of them that it would work a hardship on them in their business? A. Yes; personally, I would be glad to see it, to see them made to pay $500, but I do not think it would be fair.

Q. Do you think that that suggestion is made from agency quarters in order to enrich the agents, or in order that the problem as a whole may commence to be worked out? A. It would not be fair to impute any one's motives, and moreover, I think they are fair in that with a permanent desire to improve conditions.

Q. In other words, you believe that following that would come a reduction in the rate which would absorb the reduction in the commissions which would follow a shaking out of a lot of the agents? A. Yes, unquestionably.

Q. Do you know anything about the average rate of premium in the city of Albany for the last ten or twenty years? A. No, we have not kept our business along the line of an average rate.

Q. Do you know anything about any specific classes as to whether the premiums have increased, or been going up, or coming down, or whether they are remaining stationary? A. Generally speaking, there is a tendency towards reduction.

Q. Do you think you would say that the rates had been reduced over a course of years? A. Yes, a tendency towards reduction.

By Senator WAGNER:

Q. According to newspaper reports, there is a tendency just now towards reduction; I don't know that that covers Albany ——

By Mr. HURRELL:

Q. Has that tendency been very marked up the State? A. Not so marked as it was here yesterday.

Q. Mr. Kiernan, the discussion has come up before the Committee at various times as to whether insurance is a commodity, or whether it is an intangible something that can only be described by the name contract, whether it is tangible enough to be regulated by government, or whether it is so intangible that it ought not to be regulated in the way parties dealing in commodities are regulated? A. I think the best answer is the answer given by the United States Supreme Court.

Q. That is in the case of Hall vs. Virginia? A. Yes, sir.

Q. In the early '70's? A. In '58, I think; the court held that it was not a commodity but it was a contract, not being a commodity that could be bartered and sold in a market place, but a matter of contract. Now, that brings up again this question of the right of the State or the desirability of the State to fix rates by a board of control or not; suppose the State fixes a rate: If I am an insurance company and believe that that rate is too high, or is too low, the State cannot compel me, I don't believe, to insure that property at a rate which I think would be confiscating my property.

Q. In other words, you are not enough of a public servant where you have to carry everybody? A. No; and on the other hand, if I am insured and the State has fixed a rate which I think is too high, I don't think the State can prevent me from getting that insurance outside, if I can get it.

Q. Then you say as a practical matter, if the State fixed a rate with an anti-discrimination law, which meant that everybody should be given the same rate, that it falls down in practice because you, as a citizen, under the constitution could go outside and make your contract? A. It seems to me I would have the right to, as I assume that law ——

Q. That has been decided, that you have a right to? A. I didn't know it, but it seems to me as a reasonable proposition that about all the State could do would be to fix the maximum rate, and if we insured the property in the State, that it must be according to those terms, but it could not prevent me from getting a lower rate, if possible, or compel the company to accept it, if they thought the rate inadequate. Then what is the use of adopting such a law?

Q. Then leaving aside the case of Paul vs. Virginia, and what the court decided there, don't you think it is a fair proposition to say that insurance is just as much a necessity, and therefore, just as much an article of commerce as a lot of other commodities which have to be bought by the merchants? A. If you strike out that article of commerce, I will agree it is a necessity, yes, broadly speaking.

Q. As much of a necessity to the business world as food and drink is to the ordinary man? A. Yes; there is no use in quibbling about these little things.

Q. Is there anything you draw from this case we mentioned in the Supreme Court of the United States which directly leads you to say that the State rating proposition is altogether wrong in theory? Why shouldn't the State, for instance, regulate, if it could, and do it practically, why shouldn't it regulate this contract selling and making, as well as it should regulate the selling of commodities? A. Why shouldn't it regulate the fees that a lawyer charges?

Q. You are leaving the theoretical to get back to the practical.

Is your answer that as a practical matter you do not believe it is workable? A. I don't think so, no.

Q. Do you write factory insurance in and around Albany? A. Insurance on factories?

Q. Yes. A. Yes, sir.

Q. Do you write sprinklered risks? A. Yes.

Q. Do you find that you are in competition with the New England mutuals? A. More or less.

Q. Have you read any accurate reports or substantially accurate reports of the hearings of this Committee when the New England mill mutual people were here? A. I did, but I don't remember.

Q. It has been suggested a number of times that the statute should be so amended that the New England mill mutuals should become licensed to do business here, it being admitted on all hands that they are here doing business now, and not paying any taxes —— A. Yes.

Q. Do you think there is anything undesirable in the admission of those companies? A. Well, taking up mutual insurance broadly as a whole, first: Of course, that experience in the New England mutuals has kind of created an interest in mutual insurance, and desire for it, etc., and yet, if you will refer back to the history of the mutual insurance business in this State, you will find — you know what I am going to say — that Superintendent Barnes, your first superintendent, said that the theory of mutual fire insurance was the grandest theory ever devised for the benefit of humanity, a benevolent and philanthropic institution, but that in practice it has been the cause of more loss and suffering than gold mines or any other form of investment, and he recommended at that time a stoppage of the right of the mutual companies to do business. That has been the history of mutual insurance. May I digress a minute?

Q. Yes, certainly. A. I do not think that mutual fire insurance is founded on a correct theory, for this reason: No man expects to have a loss, but being a prudent man he realizes that those are things that he must look out for, and guard against, and in order to relieve himself of a certain contingency, fire, he takes out insurance. Now, when he takes out mutual insurance he simply relieves himself partially of one contingency, and assumes two others: The liability of an assessment, or the liability of not being able to collect his loss,

unless the company have a large surplus, and if they have a large surplus they are violating the proper conditions of their organization, because, if I am a member of a mutual company, I am liable for all the losses of the concern, and if I am liable for all the loss, I should be entitled to the profits. If they do not share the profits with me, then I should not share the losses. When they divert a large proportion of the profits from the business, they are depriving me of my share of the profits. Here is a company that succeeds in getting $1,000,000 surplus, and the management want to get hold of that $1,000,000, and they simply stop insuring. Who owns the money? The remaining policyholders?

Q. Two or three companies that are successful that started in the old days, something on that order? A. Yes, sir; as to the New England factory mutuals, they were particularly fortunate in having a wonderfully able man come into the business shortly after their organization, Mr. Atkinson, and Mr. Atkinson's continual thought and talk was that the mutual fire insurance, that the fire insurance element was secondary; that the primary purpose of those companies was to prevent losses, and he had succeeded in impressing that upon the people, and he was a man of exceptional ability. He was the one that saw first the practicability and the desirability of sprinklers, and promoted those things more than anybody else, and then by proper building, etc., he had achieved the purpose that he was after, of preventing fires. The question of the premium, and the question of the loss, and the question of insurance, was a secondary consideration. The great thing that you have in this State to-day, the great problem that you have in this State to-day, is to provide the merchants of New York city with fire insurance. The mutual fire insurance companies do not enter any place where there is a congested hazard, because there is no particular advantage, or it nullifies the advantage, if a building is sprinklered and equipped, and made fire-resisting, and on both sides his neighbors are fire traps, and realizing that, they have kept out of the cities, so the general introduction of mutual fire insurance companies into this State would not help the merchants of New York city to protect their property, and would result in depriving the stock companies, who are assuming all of the hazards, from getting a share of this business, which is not subject to conflagration, and which, by reason of its construction and care, is desirable insurance to have.

Q. There has got to be a process of give and take, I assume? A. Yes; you cannot have the milk and let somebody else have the cream.

Q. If the answer must be, as it is, that all intelligent insurance men make here, that a situation of open competition is disastrous to the companies ultimately, and to the public, therefore, ultimately —— A. Surely.

Q. And they state and show that it is inherent in the business that there must be harmony in rate-making, and in rate-promulgating, they say that is so, and that is all there is of it? A. Yes.

Q. If they maintain that position, and ask to be left alone in the making of the rates, and in the agreement on any common rate, of course that is a considerable concession? A. Yes, I appreciate that.

Q. And that concession is what is disturbing the public? A. Yes.

Q. So you would not undertake to say that the mere fact that these stock companies, who are in these rating bureaus, throughout the country, apparently, as well as in this city, that they should object because another kind of insurance corporation might get business away from them? A. Let us assume, first, that there were no control of rates, either by boards of underwriters, or by the State, that rates are open; you have got a factory and I represent a dozen companies; now, one company has had a disastrous experience on your class of business, and they say they will charge two per cent. Another company has had a little better experience, and they say $1.90, and somebody else $1.80, and so on down to one per cent, and somebody may go to three per cent; you would be very much dissatisfied with that proposition as a merchant. You would want to know how much your insurance cost; you would want to pay a certain flat rate, not one rate to one company, and another rate to another company; and then, again, you would find some companies would put on a guarantee that they must get the highest rate that any company is paid.

Q. You mean in respect to open competition? A. Yes.

Q. I was addressing my question to stock companies, which are expected to carry all the fire hazards, that they should be protected by the State, as against other companies going only into non-hazardous lines and conducting business there, the best of the business, and

I was asking whether that did not have consideration enough now from the State without taking further protection to keep business which they say is more profitable than the business with the hazard down here? A. I think the business interests and the interests of the State would be better served by not having any legislation that is going to hamper them.

Q. Now, to come back to the question we started off with: Don't you think it would be desirable to permit the mill mutuals to come in here and license them? A. I don't think that it would make much difference; in fact, it would possibly be an advantage, because we would be getting a tax, and the State don't get the benefit of the tax which it does not receive now, and they probably would not do any more business, being legitimately admitted into the State, than they are doing now without being admitted.

Q. In any event, the presence of these companies, and Mr. Atkinson's ideas in practice is right along the line that you were discussing a little while ago, that the fundamental thing to do with the whole proposition is to get into operation laws or systems that will reduce fires? A. Preventing fire loss; that is the right theory of it.

Q. On the general discussion of mutual insurance, if a man desires to feel that he is not contributing to the profits of a stock company, there is not any inherent objection, it is not against public policy, and theory, to let him pay his money into a mutual company, and receive part of it back at the end of the year if the experience justifies it? A. Why, no.

Q. Now, could not the State prevent the condition you have mentioned of the demoralization resulting from old-time mutuals that were in the State by requiring any mutual company that should organize to collect a premium somewheres along the same percentage that the mill mutuals do now, so that they would be sure to have a fund there on the first payment of premium, expecting to return part of it if their experience was favorable — that is what the mill mutuals do, isn't it? A. Yes.

Q. Now, if the State permitted the organization of mutuals, but forced the mutuals to receive from the insured a high initial rate, they would have a large unearned premium fund thereby to protect them against losses, wouldn't they; a larger fund than if they started to cut rates in the beginning? A. Again there comes in the

question of the right of the State to determine what price a contract shall be issued at.

Q. That would not be determining the price of the contract, you might say, any more than the first dollar received upon the premium by a mill mutual determines the price of the contract, because they pay back 96 cents at the end of the year, but it would be a condition that would tend to make the companies stable? A. For instance, assume that the mill mutuals charged at the rate of one dollar, a flat rate?

Q. Yes. A. Your idea would be that the State could pass a law permitting the organization of mutual companies with the provision that they should charge a rate of one dollar per hundred on risks they assumed?

Q. Get at it in some way, so as to insure any new company collecting as large an initial rate in proportion as the mill mutuals do? A. They would be wiped out of business by any such proposition as that.

Q. You mean by competition? A. They could not obtain business. If, for instance, a rate of one dollar a hundred was fixed, an arbitrary rate of one dollar a hundred was fixed, you would have this condition, that nobody would pay the mutuals a dollar a hundred with the hope of getting a good part of it back in a dividend at the end of a year, when he could go to the stock companies and get the same insurance at 25 cents.

Q. As a practical answer, that is probably so, but they do it in Massachusetts, don't they? Do you know anything about the miscellaneous mutuals up there? A. No, sir; not enough to talk intelligently about it.

Q. I would say the evidence before the Committee is that there were some two dozen companies, averaging back into the sixties in their organization, that have lived through the Chelsea fires and other fires, that collected a high initial premium, and returned a dividend? A. But that is a matter of their own procedure instead of a matter of statute.

Q. Of course, that is true, but I was asking the question whether, in framing a statute to begin in this State a system of mutual insurance, it would not be safe to take the experience of the mutuals as they worked it out, so that no other company would come in and

try to work it out differently, by cutting down rates, and getting into trouble immediately? A. I question very much the practical operation of that. I think it is another one of those cases — the mutual insurance theory is fine, but in practice it has been disastrous to everybody, with one exception, practically your factory mutuals, and that has not been due to the question of insurance so much as to their methods of preventing losses.

By Senator WAGNER:

Q. My recollection of the testimony, Mr. Kiernan, before this Committee, is, that these Massachusetts miscellaneous mutuals have been doing business for a great number of years, and also have been taking risks in congested sections of the cities, and they have been making, as I recall, a very handsome profit, that is, they have paid back dividends, and at the same time collected a surplus which has reached a very substantial amount? A. Well, I am not familiar enough with that to discuss it. Every company — and there is only one company surviving, or two mutual companies surviving, the Mutual of Albany, and the Richmond, there are only two surviving in the State of the original mutuals.

By Mr. HURRELL:

Q. Between two and five? A. Yes — the experience has been so disastrous in this thing that I really feel that the re-adoption of any of those measures would result in more harm; they would have ten companies go to one that would survive.

Q. That was my own feeling about it, and that was why I was asking you whether, if they were permitted to reorganize, you should not force them by statute to adopt substantially the methods the mill mutuals are now following out, and these miscellaneous mutuals? A. Yes, sir.

Q. I want to ask you — you mentioned a little while ago about the rates in the city of Rochester. I did not understand that there had ever been a board passing upon the rates? A. No.

Q. A board of any kind, and I want to ask information on that point? A. I don't understand that there is; that is, I don't understand that the local board has anything to do with passing those rates, that that is made by the State board.

Q. Was there a very interesting hearing before the association of Syracuse that fixes the rate there on that subject? A. Of course, I am not a member of the State Association, so I cannot answer that question. The only reason I mentioned that at all was in reply to Judge Bruce relative to the fact that if a State supervising board was held, that they would regulate and increase the rates where a disastrous fire occurred.

Q. Oh, you were just simply commenting that Rochester had a bad experience? A. Yes, what the experience had been when the companies had done it, and the companies had done it after certain conditions, after the National Board had sent engineers there, accompanied by a United States government engineer, and found certain conditions which were desirable to rectify, and were not rectified, and then they put it on, coupled with a number of disastrous fires, and you know what a storm of criticism that aroused.

Q. The pink slip in Rochester, you mean? A. Yes, when the companies did it, and under conditions which seemed to warrant it. Now, if a State rating board attempted to do anything of that kind they would not be popular in that district from a political standpoint. There is a question of politics enters into this thing. I don't mean by that any ——

Q. You simply mean that the people would become indignant at the party that had a majority of the committee? A. Yes, I think so. It is a dangerous political thing.

By Assemblyman Foley:

Q. Suppose it was made a non-partisan board? A. It is a dangerous proposition, I think. It has no value to compensate it at all for the cost to the companies, and the cost to the State, and everything else that naturally would go with it. You know we are pledged to reduction of expense in the State, and we do not want to promote means for increasing them.

By Mr. Hurrell:

Q. As I don't know what your politics are, I shall not question you on that point. I want to ask you what your opinion of the anti-rebating law is. Do you believe that the statutes of this State should provide a penalty for the fire insurance agent who divides

his commission? A. I think, of course, that rebating is an evil; that the tax should be evenly applied, and if one man is willing to pay his tax, and another is shifting around, that that is an unfair proposition. As far as the State enacting a law preventing rebating is concerned, I would be opposed to it for this reason: That I do not see how the State could grant to certain incorporated or unincorporated bodies known as boards of underwriters the right to fix a rate, and to provide by statute that anybody that violated that rate was subject to a misdemeanor, or anything of that kind, without at the same time assuming the control. Now, in every other case where the government has passed an anti-rebating law, they have control, and I feel it would so naturally follow.

Q. You mean control of rates? A. Yes, control of rates. For instance, in your railroad rate law they prevent rebating where the government has some control over rates. Now, to pass an anti-rebating law giving the boards of underwriters the right to fix a rate from which there shall be no deviation, without carrying with it the question of control, would be something that I think would not be good public policy, and I am opposed to enacting that statute because I am opposed to it and think it would be disastrous to have the State attempt to make rates or supervise rates; and State supervision must naturally follow any anti-rebating law giving these boards of underwriters a right to make a rate from which there should be no deviation.

By Senator WAGNER:

Q. Do you know any other class of business in this State dealing in the necessities, and you have conceded that insurance is a necessity —— A. Yes.

Q. —— that enjoys the privilege which the fire insurance does of being permitted to combine in order to fix prices, without any State regulation or supervision? A. Theoretically, Senator, there is not any question, there is not any doubt but what that is an indefensible practice, and that is all we are, and that is all the Committee is after, I assume, to improve the conditions, not so much for the insurance people, but to improve the conditions for the people at large. Now, the practical result of a law prohibiting them from getting together would be disastrous to everybody; disastrous to the

merchants, because it would imperil the safety of the companies. The passage of a law requiring the State to have control over the rates, where they granted a board the right to make the rates, would result in a lot of other conditions which would be disastrous to the people. It is like mutual fire insurance, as Superintendent Barnes said, it was the grandest theory ever created for the benefit of mankind, and that is true, but the practice of it was such that he recommended its discontinuance after a long period. Now, you would find, in my judgment, the same condition here, that while, theoretically, there should be some regulation, where conditions are permitted that do exist, practically it would result in a very bad condition for the merchants of this State, as well as for the insurance interests, but the Committee and the State naturally wish to consider the merchants rather than the insurance interests.

Q. Let us assume, then, a condition like this, that your board on the Fire Exchange, that is, the rating committee, fixes a rate which the insurance companies, members of the Exchange, would have to follow, and unquestionably that that rate was an unreasonably high rate? A. How would you arrive at that question of "unquestionably," sir?

Q. I am assuming that it is a rate unreasonably high, as shown by experience, upon a particular class of risks; assuming that to be the case, what remedy has the public to have that rate reduced? A. I can say that I am gone already if I admit your premise.

Q. You will concede that there are rates at times fixed that are too high; the mere fact that we had, as the newspapers reported, a reduction yesterday, is a concession that the rates must have been high. Suppose the Fire Insurance Exchange will not take the initiative, of reducing them, and they will simply sit down and say we have fixed this rate and it is going to be the rate, and that is all there is to it, what remedy is the ordinary citizen to have, what remedy has he to have that rate reduced, or to get a reasonable rate? A. The only thing that I can suggest in that matter is this, I am so much opposed to the supervision, etc., that I cannot answer that question except in this way, that I think this Committee could properly recommend, and it would be a desirable thing, if all of the schedules, the base schedules, were filed with the Insurance Commissioner, or with anybody that you may choose, and that it be provided that no

increase be made in those schedules without first getting the consent of the Superintendent of Insurance; that you file the schedules themselves. That would do away with the question of classification, which would not be of any great value, and it would enable a man to go to the Superintendent of Insurance and find out just what the schedule is that applied to his particular class, what it was based on, and how the rate was determined, etc.

Q. We finally get that concession from you that you believe in that much publicity? A. Why, I am in favor of publicity.

Q. That is all that that would be? A. Yes. I don't think you can have any monopoly in the fire insurance business. It is too easy to organize a company — you don't have any big plant that costs eight or ten million dollars, and which takes two years to construct, and too easy to go out; a fire insurance company decides to go out of business, and it has got its assets in convertible securities. It is not like any other form of business which operates in the form of a monopoly, like a railroad or a lighting plant, which has a fixed value; the plant is not of any value in case it stops business, in your fire insurance proposition. It is simply a bunch of assets gotten together of good convertible securities, and if they desire to go out of business at any time, they can reinsure; and the ease with which companies can be organized prevents any great danger of a severe monopoly; and another feature that in a measure, I think, proves that there has not been any great monopoly is this: That your mutuals and Lloyds, excluding always your factory mutuals, your mutuals and Lloyds and other so-called underground companies which have operated on a very slight scale below the stock companies, have fallen by the wayside. Now, if rates were at prohibitive figures, or at a figure which left a large margin of profit, those companies operating at only a slight difference in rates would have made a success, but they have not made a success. Doesn't that argue in itself that the rates are not unreasonably high? Doesn't that argue that the ease with which companies can be organized make it advisable for the old line companies to keep rates at as low a figure as is consistent with safety? I will concede that there are inequalities in rates — things that you cannot prove, that seem to all human judgment that the rate is too high. I have refused to write business at rates named by the company, because I thought they were

too low, I suppose, and we have thought other business was too high. The question of judgment has got to enter into it, but it is to the company's interests to prevent rates being too high, because that encourages the formation of new companies, and additional competition, and the fact that that has been done, I think, is proven by the experience of the mutuals and Lloyds and companies of that kind.

By Vice-Chairman Brough:

Q. We have testimony here by some experts that it is almost impossible to start a new business and get it going successfully, and I think it was pointed out that none have been in a long time started and are still going on. That those that have gone into the business within the last few years have gone out again; somebody testified to that.

Mr. Hurrell: There is testimony, I forget from which witness, to the effect — I guess it was Mr. Markham, in speaking about whether fire insurance companies were amassing fortunes, he commented upon the fact that there had been a large number of companies organized and gone out of business in the last few years, while some of the old leaders were the ones that had continued? A. Yes, sir.

Q. So that it was practically very difficult to start a new company? A. I beg your pardon, but I do not think the deduction would be it was so difficult to start, but that the margin between profit and loss was so small that those companies did not have the ability to win success from that small margin. It takes long experience. It takes an enormous expense to plant an agency that is a good agency force, and it was not due to the fact of the difficulty of the statutes regarding the organization of companies, but rather the difficulty of the practical operation of the company.

Mr. Hurrell: That is what I understood; that was your understanding, too?

Vice-Chairman Brough: Yes, that is what I understood.

By Mr. Hurrell:

Q. You are addressing yourself to the ease with which $200,000 can get the business in shape? A. Yes, you can get it together to-

morrow, because you can simply put it in securities, and if you want to go out of business, the next day you sell your securities.

Q. I want to speak of the anti-rebating law; you are aware, are you not, that there are several States which have an anti-rebating law that are in force on the subject of rebating of fire insurance premiums? A. Yes, I understand so.

Q. The dangers that you seem to fear, in view of an anti-rebating law, leads logically to the State Board taking hold of the rates? A. Yes, sir.

Q. Massachusetts has such a statute, I believe. It hasn't lead to that over there. Do you know of any agitation that is in progress anywheres coming from an anti-rebating law, which is leading to a State rebating board? A. No, I cannot say that I do, but it seems to me that the two propositions are so closely interwoven there that it would necessarily result in that.

Q. That is, you mean to say that an anti-rebating law is of little use if there is open competition? A. Yes, sir.

Q. Because, having in mind the purpose of it is to prevent discrimination between citizens? A. Yes.

Q. And so you say if there is to be an anti-rebating law, then there has got to be uniformity of rates? A. Yes.

Q. A common rate? A. Yes; and can the State approve a common rate and make a variation or deviation from that rate the subject of misdemeanor, or any other term, without having control?

Q. So that is part of my proposition of the State rating board idea? A. Yes. It is not that I am in favor of rebating; I am very much opposed to it, but for the State to recognize the right of the board to make the rate, and provide a penalty for any deviation, would seem to be impossible.

Q. Have you any specific recommendation that you think might be useful to the Committee to make? A. I think I have practically covered them all. The question of the filing of schedules, for one thing, that would enable, or prevent any increase of base rates of present schedules, without the consent of the Superintendent of Insurance. That would be one measure.

Q. Then you have him as the gentleman that passes on the rate, who is outside of the insurance community? A. Yes, I simply mean, pass on the question of the schedules themselves. Now, a certain

schedule is adopted, that is filed with the department; provide that no increase in that schedule, on the base of charges under the schedule, should be made without the consent of the department. Now, if a citizen feels aggrieved it is his right, and he could then go to the department, and the department could show him the schedule under which his rate was made, the charges, and the reasons for the charges, except certain things that are of an arbitrary nature.

Q. You think that is the least harmful form of State interference in the matter of the price of insurance? A. Yes, I think that would provide a means that would prevent any undue increase of rates, and would not be harassing to the interests of the fire insurance companies, or the interests of the people.

Mr. Hurrell: Any questions, Mr. Chairman?

Vice-Chairman Brough: No.

Mr. Hurrell: That is all, Mr. Barry.

James V. Barry, called and sworn as a witness, testified as follows:

By Judge Bruce:

Q. Where do you reside, Mr. Barry? A. At Lansing, Michigan.

Q. Have you held the office of Superintendent of Insurance for your State? A. Yes, sir.

Q. During what period? A. From 1901 to November 15th of the present year.

Q. This is a Committee of the Legislature of the State of New York, which is making an inquiry into the whole subject of fire insurance for the purpose of suggesting to the Legislature at its next session any remedial legislation that the evidence before the Committee may seem to justify, for the purpose of making the business of fire insurance more equitable between insurer and insured, if possible. Permit me to make some inquiries with reference to the laws of your own State of Michigan. You have, in that State, an anti-compact law? A. To some extent. The anti-compact law lays only against foreign companies. The corporations of Michigan are not included in the law.

Q. How long has this statute been upon your books? A. I should say for 15 years, or thereabouts.

Q. You have also an anti-co-insurance law, except upon the application of the insured? A. Yes, the written application, and the law specifies how it should be.

Q. How long has that statute been upon your books? A. 1907, I think it was — let me see — yes, 1907.

Q. Now, taking up those two subjects in the order in which I have mentioned them, the Committee would appreciate it if you would give us your views. First, take the question of the anti-compact law to the extent in which it exists in your own State. Will you give us your observation as to its operation, how rates are fixed in your State, if you have any supervision, governmental supervision, or control over them. A. We have no governmental supervision or control over rates in Michigan at all. As I stated, the anti-compact law does not include the Michigan corporations; and the corporations of that State do maintain a rating bureau, known as the Michigan Inspection Bureau, which inspects the risks, and makes advisory rates; and those rates are purchased by the other companies doing business in the State to a greater or less extent.

Q. How many home companies have you, approximately? A. We have four or five insurance companies; I am speaking now of doing a general business.

Q. And all the other companies operating in the State are foreign companies, are they? A. Yes, sir. They are all either of other States or countries.

Q. Those four home companies have a combination which fixes rates, and which are met by the other companies? A. I am not sure that the four are interested in it. I know the two Detroit companies are. It is maintained under their supervision.

Q. And do they make the rate, both for municipalities and also for the rural districts? A. Yes, I think they do. I think they make the rates throughout the State.

Q. And those rates are uniformly adopted, are they, by the foreign companies? A. I don't believe I can say uniformly; I think they get the advisory rate, if they can, and if they don't, they take what they can get.

Q. My object being to find out whether you have any competition

on rates in your State? A. We do, in places. Just at present Detroit, and for some time Detroit has been the scene of very fierce competition in the matter of rates.

Q. Has there ever been any movement in your Legislature looking toward the formation of any bureau, or governmental agency, for the purpose of regulating rates, or supervising them? A. I can hardly say a movement. At the last session of the Legislature, 1909, the matter, just at the end of the session, was referred to. Hardly any more than that.

Q. In the form of a bill being introduced? A. I don't think it came to that; yes, it did. I think there was a bill that came from the upper Peninsula on the subject, and the Senator who introduced it discussed it one day before the committee, and that was all that was ever done about it.

Q. In this bill, which department of government did it seek to lodge the power with? A. The Insurance Department.

Q. With the Commissioner, himself? A. With the Commissioner. As I recall it now, it was modeled after the Kansas statute.

Q. Now, as a man of wide experience in the insurance field, will you give the Committee the benefit of your views on the question of State supervision or regulation of rates? A. Well, my fear of the State regulation of rates is that it would be largely a political proposition. Or, in other words, that the primary object would be to reduce rates without any reference to readjustment or equalization; and that the work would not be scientifically and intelligently done; it would be done arbitrarily.

Q. The evidence before the Committee here shows, take, for instance, the city of New York, that in the Metropolitan district here all the stock companies operating in this field are members of the New York Fire Insurance Exchange, which is a rate-making body, consequently they control absolutely the market for insurance. I presume you would agree, as a matter of theoretical justice, and right, that if a State permitted such a combination to exist, that the citizens would have a right to demand that there should be some governmental agency that should have the power of review? A. Theoretically; yes, sir.

Q. Practically, you think that there would be a danger of pressure which might be brought upon that agency, from a political

point of view, to continuously be reducing the rates? A. I think that has been exemplified in the case of both Kansas and Texas.

Q. Now, coming to the question — I understand you are anxious to get away, Commissioner? A. I am at your service, sir.

Q. Coming to the question of co-insurance; what led in your State to the adoption of the law that the co-insurance clause should not be incorporated in a policy except upon the written application of the assured? A. Well, the other system was in vogue for many years without any particular complaint, or none that I heard of, anyway. Finally there was a case in court, growing out of a co-insurance clause. On one side it was claimed that it was a case of welching, the man made the bargain knowingly, and when he didn't happen to have the values that he thought he was going to have at the time of the fire, he welched in the matter. And the other contention was that it was a lack of knowledge; that the average person having a co-insurance clause attached to his policy never had any knowledge that it was there in the first place, or in many instances, where he did know it was there, he didn't understand it; didn't understand its workings. And the court sustained the contention of the plaintiff in that case. Following that there was an effort to have the matter adjusted, and it took this form. In that statute, as you possibly have read it, it provides that the co-insurance clause can be used only when written application is made therefor in substantially the following form, and the form is written in the statute.

Q. Really, for the purpose of bringing home to the assured at the time he takes his policy, that he knows about the clause? A. Yes, sir.

Q. And the form in which it is to be incorporated? A. Yes, I think the form states he understands what he has applied for.

Q. What are your own views upon the question of the co-insurance clause? A. If I understand the situation correctly, I think it is quite essential in the case of large values that are distributed through various sections of a plant.

Q. Do you agree with the views expressed by some witnesses here that it would be more equitable, if it were not arbitrarily fixed at say 80 per cent, but if the rate were based upon the amount of insurance which the insured desired; say 10 per cent, 20 per cent, 30 per cent, 40 per cent, 50 per cent and so on to the full value? A. And the rate to be determined at the time of the completion of the contract?

Q. No, the rate to be determined at the time the contract is written. A. Which is to be applied?

Q. On the basis of the amount of insurance which he wished to take? A. Yes. I am inclined to think that would be more equitable than an arbitrary rate fixed at the beginning.

Q. You do not have the valued policy law in your State? A. No, sir, and never have had.

Q. Has there ever been any agitation looking toward a valued policy law? A. Not much agitation. There was one bill, and the same bill was introduced in the Michigan Legislature several sessions in succession, but it never had any particular support; none whatever that I knew of.

Q. Has it ever come to a vote in either house? A. No, sir; I think not.

Q. What are your views upon the question of a valued policy law? A. I am opposed to it. I think that it leads to increased fire waste, and frauds of various kinds.

Q. Then it is on account of the increased moral hazard that you would be opposed to it? A. Oh, yes; solely.

Q. Now, have you ever given the thought of State regulation of commissions any consideration? A. Yes, some consideration.

Q. Is there, in your own State, any statute regulating the commission of agents? A. No, sir.

Q. And what are your views with regard to the wisdom of such a statute? A. I have never been able to satisfy myself that it could be worked out satisfactorily. I never was able to determine what the commission should be; or whether the limitation should be upon commissions, or a maximum of the percentage of expenses, maximum percentage of premium to expenses.

Q. Have you any such a statute in your State, regulating the maximum percentage? A. No, sir.

Q. Do you think it is practicable? A. I never persuaded myself that it was; no, sir.

By Mr. HURRELL:

Q. The commissioners have been wrestling with the problem, have they not, for some time, in the national conventions? A. For some time; the last two or three years.

Q. It seems to me I remember seeing a report that was issued from the committee of which you were chairman on that subject. I may be mistaken, but I know your committee had it under consideration. A. I think we did; you undoubtedly saw the report.

Q. You reported in favor of a contingent commission plan, did you not? A. Yes, sir. That was my conclusion after viewing the whole situation.

Q. That report was more in the nature of a report of what ought to be, rather than a report on a specific piece of legislation? A. We did not undertake to report any specific piece of legislation, or any specific rate, flat or contingent rate. It was simply a conclusion that that was the solution of the problem, and we left the plan of the details to be worked out by people more familiar with the practical operation of the business.

Q. By the companies? A. By the companies — more familiar with the business than the commissioners.

Q. Was there any time, do you think, a desire upon the part of the commissioners, or an expectation, that that plan would find expression in a statute? A. I think that that was their ultimate hope, at any rate.

Q. You spoke a minute ago about being somewhat in doubt as to whether the limitation should be upon the commission or upon the total expenses? A. Yes, sir.

Q. Now, can you elaborate that a little? A. I think that was due to the fact that I, at least, was not able to determine in my own mind what the proper maximum rate of commission should be; and then the alternative came; and assume now you say no more than 30 per cent of the premium income should be used for expenses, and let the companies divide them up as they saw fit.

Q. Increase their inspection expense if they will, and decrease their commissions? A. Yes, sir.

Q. That is the plan, in a rough way, that is followed in the life insurance business now? A. Yes.

Q. The total expenses are limited rather than any specific commissions to agents? A. Yes. I think the commissioners had that feature in mind, that life insurance provision.

Q. Of course the difficulty there was in determining what the mortality was? A. Yes.

Q. And here, the burning risk? A. Yes.

Q. Do you know of any States that have taken a pronounced stand on the question of commissions, to the extent of attempting to limit them? A. I do not recall any.

Q. Or that have attempted to limit the expenses of fire insurance companies? A. Not that I have in mind now.

Q. What is there about the contingent feature, Mr. Barry, that commends itself to your mind? A. It seems to me that it is a solution of the whole question. Under the present system, to my mind, improvements have arisen in every direction. In the first place I think it arrays the agent against the company. Here you have a system that gives an agent a commission, a percentage of his premium for his compensation. There is nothing in that situation that would induce him to cut the premium down, cut the premium down by improving the risk. For he follows the natural bent, as a greater or less number of agents will; he will undertake to get the most hazardous risks he can get his company to take, for the very obvious reason that the rate on that is higher than it would be if it were a better risk, and consequently his commission is higher. It is only the very conscientious agent who, under the present system, will exert himself to improve conditions. And assuming he has a good risk here, that he has carried for a number of years, and it has been a good risk, because of lack of any hazardous exposure and all that, and next week there is a hazardous exposure; he won't cancel that risk. He will keep on carrying it; because he is out after his commissions very naturally. Now, my notion was, that if the companies, by making the agents' compensation dependent upon the profits of his agency, it would result in converting their great army of agents into an army of inspectors, and that would be doing the country a vast service. Every agent, then, would be intent upon having every risk with which he had anything to do cleaned up and improved in every way; and in that way, I think, it would be one of the most marvelous agencies of conservation that one could imagine. Now it is not. Every agent is arrayed against his companies, or it is certain a large number of them are. Those that are looking after their own interests. The agent isn't going to exert himself to have conditions improved when the inevitable result is going to reduce his own income. Under the other system the

greater the improvements he brought about the greater his income would be, because his losses would naturally be less and his contingent would be larger.

By Judge BRUCE:

Q. He now has no pecuniary interest in the losses of his company? A. None whatever. Our present situation leads to this condition. There is another feature of it, too. That is that it leads to the injecting into the business of agents that have no qualifications at all, and who care less. Now, we will say that you have been an agent of the company, an agent of long experience, conscientious in every way, and you have insisted upon your clients cleaning up their premises, and if a risk, through exposure, or other reasons, became bad, you would conscientiously cancel it; and you come up to the end of the year with a handsome profit in your agency. Another agent goes into the business without any knowledge, any experience, and no conscience. And he does none of those things that have made your agency a profitable one; and yet you are both compensated alike. You get the same commission on your premiums that he gets, and, what is more to the point, he gets the same as you get.

Q. Isn't it a fact, to-day, if there is a great loss, it usually makes everybody anxious to get more insurance, and would really operate to the benefit of the agent? A. Yes, sir. I think the public themselves are largely responsible for conditions, because, generally speaking, we take no note of the causes of fires. Your neighbor may, through carelessness or negligence, set fire to the block in which you live; and nobody even thinks of him harshly. He collects all the insurance he has been fortunate enough to provide, and goes on his way. The utter lack of public concern about those things contributes largely to the situation. If we had better building laws and had them enforced, the situation would be greatly improved.

Q. What do you think of the proposition of a previous witness, that the property owner in whose premises a fire starts should not be permitted by law to recover more than 70 per cent of the value of his insurance? A. I should think that was a little drastic; if it were a fact that it was from a cause thoroughly beyond his control, that

he did not contribute to the conflagration, through negligence or something of that kind, I don't know why he should be penalized.

Q. Suppose you were to eliminate the causes by act of God and common enemy; so as to eliminate lightning and earthquake, which are the acts of God, and the results of riot or revolution; something of that character? A. I think it would lead to better conditions.

Q. That certainly would be a most drastic method, would it not? A. Yes, it would be very drastic.

Q. If a property owner knew that if a fire started on his premises that under no circumstances could he recover more than 75 per cent of his loss, and 25 per cent would fall on him, would it not spur him to greater diligence, to extra caution? A. I think so. And that idea is worked out in Michigan, at least, by a hundred or more farmers' mutual fire insurance companies that only insure for three-fourths of the alleged value.

Q. How many mutual companies have you operating in the State? A. Of that class of mutuals we have about 101; farm mutuals; they are confined to three contiguous counties, farm property and detached risks in villages.

Q. Have you any miscellaneous mutuals there? A. No, sir.

Q. You have, I presume, factory mutuals? A. None, that are organized in Michigan; we have a few eastern mutuals that operate.

Q. That are permitted to do business in your State? A. Yes, sir.

Q. Are any of the New England miscellaneous mutuals permitted to do business? A. There are only two that have complied. I have endeavored to have all the best ones make application, but did not succeed. I rather think it is because one or two of them are in there, and that they get the business and write it for the others, possibly.

By Mr. HURELL:

Q. What are the disadvantages of the contingent commission plan? A. I have never been able to persuade myself there were any.

Q. And you think you are committed to any plan of making agents? A. Yes, sir. I have boxed the compass in every way I know how, and yet the needle always points the same way every time I finish. I am not prepared to say what I should do.

Q. All you say is you think somebody can determine that, but the idea of getting in connection with the company is the one of connecting the company and agent up in interest? A. Yes, sir; and then the interest of the agent and the company would be identical. Now they are hostile.

Q. It has been suggested by a number of gentlemen on the stand that the answer to that was that an agent, having several companies in his agency, would, if he had a good experience running along for a year with one company, so that he would be sure of a contingent commission, then he would take the bad risks, and, instead of putting them in that company, he had one company that he put all the bad risks in, realizing that he would not do for a contingent from that company.

Q. I think that is begging the question. I think that is all necessary with the entire fire insurance business, and that is a matter of average, and while Mr. Jones might be doing that in Lansing, Smith and Brown and Green in Detroit and Grand Rapids and Muskegon, would be doing just the other thing, and it would even up. I do not think it can be maintained that fire insurance is a business that averages to a certain extent only. That principle applies to it in its entirety, and as to this with peculiar force.

Q. That is, that it would be a violent assumption that every agent would be that dishonest? A. I think so. He would be the same dishonest agent that would indulge in other questionable practices, and he would not hesitate at anything.

Q. I was interested in your statement that the co-insurance clause had to be applied for by a written application. As a matter of fact do you know whether the business community use it as one of the incidents of insurance? A. It does. I think it is used quite as freely as it ever was.

Q. And is the practice of getting the signed application usually followed out? A. It is. I think it is invariably followed out, because the clause is absolutely void unless it has been correctly applied, and the public knows it.

Q. Do you have an anti-rebate law? A. No, sir.

Q. In your State? A. No, sir.

Q. What are your ideas upon the advisability of applying the anti-rebate principle to fire insurance? A. I think it is a good

practice to apply. I do not think that the way-wise man, who takes an agent by the throat and throttles him for part of his commission, should be permitted to have that advantage, while the average individual, who does business in the ordinary course, pays the going price. I think that an anti-rebate law, properly applied, would affect a reduction in general, and that all purchasers of insurance would share in it rather than the company that held the agent up for part of his commission. I think, however, that it would have to be applied in conjunction with some filing of schedules.

Q. Such as the last witness suggested? A. Yes. I think his idea is right about that.

Q. Do you believe, as a practical matter, that there is any great value in a uniform, combined classification of loss experience on the part of companies in the making up of rates? A. Yes, if you can get a uniform classification that is sufficiently comprehensive, and at the same time sufficiently specific. What I mean by that is, the companies all have classifications, but their purposes are so different. One company will have a large number of classifications, and the other a comparatively few, and I think that one of the difficulties has been that because of jealousies on the part of the companies, jealousy of their information and experiences that they thus far have been able to agree upon in classification, and to give out their actual experience, as a whole.

Q. Yes. Do you think that the subject of making a rate must, in the last analysis, continue to depend upon expert judgment rather than anything that a State might devise to draw forth the concrete information from the companies? A. I am inclined to think so. Now, I never have been able to persuade myself that I would be able to make an intelligent rate. In other words, I concluded that I did not know anything about it.

By Judge Bruce:

Q. Well, were you able to persuade yourself that you would be able to review a rate, and determine upon the evidence submitted, whether it was a fair and just one? A. Yes. If you had a classification to base your estimate on. That is why I say you should have a classification, and then, if a citizen came to the authorities

and said, "My rate is too high," the judge would have something to base an opinion on.

Q. Not necessarily follow it arbitrarily? A. Not necessarily, no, but otherwise it would be simply a matter of guess-work with him.

By Mr. HURRELL:

Q. Now, your comment a moment ago, that the companies kept different kinds of classifiaction —— A. Yes, sir.

Q. And were reluctant to give up the information because of jealousy? A. Yes. They deem it a business asset, of course.

Q. And you mean by that that some particular underwriter approaches the business from a certain direction, and keeps his information in his way that he uses in selecting the risks he is going to put his company on? A. Yes, sir.

Q. And in selecting the risks that bear certain rates, and so forth? A. Yes, sir.

Q. And that he regards that as the sum total of his underwriting experience? A. Yes, sir.

Q. That he has paid for by experience? A. Yes, sir.

Q. And that he ought not to be called upon to give that out, at large, for somebody else to go in the business with, that he has worked over for years and years, a private business experience? A. Precisely. That is what I had in mind.

Q. Now, what do you think of that argument that the business man who has, let us concede, done the work through the years, that got that experience and made his company successful — what do you think is the right as between that man and the State, which says, contribute your experience, all of you, so we can induce other people to come in on the correct basis? A. I think the right of the State is paramount.

Q. You do? A. Yes, sir.

Q. Have you a fire marshal law in Michigan? A. No, sir. We ought to have.

Q. You believe in the principle of a fire marshal? A. I do. I believe in the principle of the fire marshal law. It should be rigidly enforced, and every fire should be investigated.

Q. Whether there was insurance on it or not, and whether complaint has been made or not? A. Yes, sir.

By Judge Bruce:

Q. Do you know how it has operated in the States where they have adopted it? A. Where it has been properly enforced I think it has worked — had a very beneficial effect. I think it reduces losses and reduced fires due to carelessness and crime.

Q. It would have to be uniform, however, in its operation, compulsory, I mean? A. Yes; compulsory.

Q. In reference to every fire? A. Yes, sir; because it is just as important with the public that a repetition of careless losses should be stopped as appears for criminal losses.

By Mr. Hurrell:

Q. Mr. Barry, have you any suggestions that you would venture as to the ideal condition of rate-making? A. I have not, Mr. Hurrell.

Q. Of course you know of the situation here and in other places, where there is a close combination to maintain rates? A. I have a general knowledge; casual knowledge.

Q. I will ask you whether you consider a condition better, from the public point of view, where the companies maintain a bureau and enforce the rate that the bureau promulgates among themselves, so that there is a common rate for each class of property, a common schedule used — whether you consider that leads to a better public condition than another State, where the companies compete with one another at different rates for different risks? Which is preferable, from the public point of view? A. Well, on the assumption that the companies are to employ the best talent obtainable, and to do the work conscientiously, with a view to making a proper rate — I mean proper in its best sense — that that is the better system, because my experience has taught me that when it comes to a question of competition, the managers are so crazy for the volume that they will take most anything that is offered them, and it leads to disaster, and the public might better, if it is necessary, pay a little more than the commodity is worth, and have indemnity upon which it can depend, then to pay a less rate and be leaning on a broken reed.

Q. Do you think that a proper amount of publicity, without any power in the department to enforce a reduction, the proper amount

of publicity of the inside workings of the bureau and of the results in different classes, and so forth — that just that publicity alone would tend to keep that machine running in the proper way? A. I think it would tend very strongly in that way.

Q. If the State were trying to get a steer between those two propositions, the State regulation upon one hand, and a complete monopoly to the companies upon another, would you say the way to do would be to insist upon knowing how the machinery worked, and insist upon a proper amount of publicity being given to it? A. I think that would go a long way towards solving the problem; and, speaking of that matter of competition, as a supervising official I always was a little fearful, especially when smaller and younger companies commenced to cut rates. We always kept our eye on them very closely, because the history of the business has been that whenever the companies make an abnormal profit, lots of capital jumps into the business in inexperienced hands. The experienced managers simply look to some companies that have made a large profit, and say we will be satisfied with so much less, but they do not know how to produce so much less. They adopt some course, or think they will reach that end, to find in the end that it has been unscientific, and the rates are ruinous, and either one of two things happens; the larger companies go down, or some larger companies come in and reinsure them and save them from going down and from having that disastrous effect on the business at large.

Q. So in your experience, whenever you see a company that goes out to compete by cutting rates, you watch and see what is going to happen to it? A. Yes, sir. Almost invariably it is due to lack of experience in understanding the business.

Q. Of course it goes that way —— A. (Interrupting) and likewise it is the same class of companies that pay the exorbitant commissions.

Q. That force up the commissions? A. Yes, as naturally the only means of getting the business, by making it the object of the agent to give it to them.

By Judge BRUCE:

Q. That is, the first thing to be desired on the part of the assured is that the indemnity will be ready in case of loss? A. Yes. That

is the thing the State should look out for above everything else, and I was never very much alarmed when I found a company had even more than a substantial surplus. That commended itself to my judgment very strongly.

By Mr. Hurrell:

Q. This state of competition, without any balance to keep the rates even, leads also to discrimination as between citizens? A. Yes, sir.

Q. And would largely destroy the effect of the anti-rebate law if there were one? A. Yes, sir.

By Judge Bruce:

Q. Now, as between anti-compact and State regulation or supervision in rates, which is, in your judgment, the greater evil? Or, I will put it the more dangerous policy? A. Well, speaking solely from State regulation as I have known it, I should say that it were. For instance, as you know, the Texas Legislature sought to legislate on the subject of rates within very recent months, and — this is my opinion about it — they did not understand the subject with which they were dealing. Their object was to reduce rates. They enacted a law, and as soon as it was put in operation, it did not reduce rates at all. It increased them. They got it wrong end to, due, I presume, to lack of knowledge on the subject.

Q. What was the nature of the act? A. Well, it was a State rating act, and about the first effect was to put the people of the State to the expense of calling a special session of the Legislature to repeal that law.

Q. Was it fixing rates by statute? A. Well, yes. I do not know as I can say fixed by statute. Yes. It did fix by statute, because it provided machinery, through a department or commission, a commission, was it not, Mr. Hurrell?

Mr. Hurrell: Yes; through a commission.

The Witness: Through a commission, and I never studied the statute carefully, so I am sorry to say I am unable to give you the detail, but that was about the first thing that was done, or that happened after it was put in operation, and that was to call the Legislature together to repeal it, at the instance of the commercial

bodies and other citizens who were paying the most freight, or increased freight, anyway. That is why I say I have never been able to persuade myself that State rating would be practicable, because I fear it would be a political proposition.

They started out to reduce rates, but they did not know how to do it. That, however, was confessedly their purpose, and they did just the other thing, and it is obviously impossible for any legislative body to study the subject sufficiently to understand it thoroughly. It must be done by some smaller body of men. I do not mean to say a smaller body of men representing the State cannot do as well if they are competent, as an equal number of men representing the companies, but it must be somebody that understands the business.

Q. Well, then, you think the method employed in Texas was ineffective? A. Yes.

Q. Well, do you think there could be a proper method adopted? A. Yes, sir. All things are possible. I think there could be a method adopted.

Q. And would that method involve the representatives of the companies to fix the rates, at least a base rate, in the first instance, and give to the governmental agency the right simply to review? A. That is, with my present knowledge, as good, or as comprehensive a plan of State rating as I would favor.

Q. I take it in your State, although you have the anti-compact law with reference to foreign companies, that you practically have compact? A. In a sense we have; yes, sir.

Q. That is, if your home companies have the power to fix the schedule of rates, and the foreign companies adopt those rates, you have in effect practically compact? A. Yes. They fix the rates, and the foreign companies all adopt it — in effect it would be a compact.

Q. Well, isn't that practically, in effect, the condition that you have in Michigan to-day? A. We have in Michigan all along through these years that the law has been in effect, had a greater or less measure of competition. In fact I have had a great many complaints that people were cutting rates, and wanted me to put a stop to it, and I would inform them that the Commissioner of Insurance would not terminate those practices; that the Commissioner of Insurance would rather have those practices than break them.

Q. Basing it upon your experience as Commissioner in that State for over ten years, do you think the law you have a wise one or unwise? A. It has resulted in a gradual decrease in rates. In 1909 the average rate was the lowest in thirty years.

Q. In thirty years? A. Yes, sir.

Q. And has that decrease taken place, or gone on uniformly, since the adoption of your so-called anti-compact law? A. Not uniformly. There have been variations from it.

Q. But, there has been, from period to period, a dropping? A. Yes, sir, and the 1909 rate, as I say, was the lowest since 1880.

Q. Upon what theory did you base your act permitting companies to combine, but forbidding foreign companies to join in the combination? A. I never knew that. That has always been a query in my mind. The law was enacted before I had any knowledge of the situation, and I never read it, but what that thought came to me.

Mr. HURRELL: That suggested itself to my mind at once.

Chairman BROUGH: The Committee will stand adjourned until 2.15 P. M.

AFTER RECESS.

Senator Wagner in the Chair.

Chairman WAGNER: The Committee will come to order.

JOHN J. SCHMITT, called as a witness and being duly sworn, testified as follows:

By Mr. HURRELL:

Q. Where do you reside, Mr. Schmitt? A. I reside at 971 Lexington avenue. The house is closed just now. We live at a hotel.

Q. You have a complaint, have you, to present to this Committee as to an increase in rate? A. I have; yes, sir.

Q. Will you kindly state it? A. I have an old policy here which had expired on December 7th, 1908, on property 337, 339 and 341 Second avenue. The amount of insurance on those three buildings was $24,000. The premium which expired on December 7th, 1908, was $100. Now, the new policy which was issued on December 7th, 1908, covering this same property of

$24,000 insurance, the premium was jumped to $260. I went down and called on those people, and asked them why they raised this rate, through my broker, Mr. Barber, and they told me that there was a factory on the 20th street side, which ran to about 100 feet behind this property, where they had some varnish, etc. Mr. Grimer has been there, I guess, for thirty years, before my father put up this property, and they claimed on account of exposure of this factory that they had to increase the rate on these buildings.

Q. Do you know whether the same manufacturing process was carried on in that factory at the time these buildings were erected, or did it come in subsequently to that time? A. The same man is still there.

Q. Doing the same kind of business? A. Yes, sir; Mr. Grimer, he is a varnisher by trade; that is his business.

Q. Did you ever inquire from the board and the Fire Insurance Exchange why they had overlooked the exposure hazard for so many years? A. No, I did not; I did not ask them. They told me that on account of the exposure there that they had to jump the rate; it was too risky.

By Senator WAGNER:

Q. Did you go down to the offices of the Fire Exchange? A. Yes, the Board of Fire Underwriters; those are the only people you can see, through my broker, Mr. Barber, Mr. James W. Barber.

Q. I understand that there are two different bodies, the Board of Fire Underwriters and the Fire Insurance Exchange?

Mr. HURRELL: Where did you go?

A. The Board of Fire Underwriters; they make the rates, I believe; at the time I believe they were in the Mutual Life.

Q. You know that the place you called — you went to the place where the rates are made? A. Yes, sir.

Q. They did not reduce your rate, did they? A. No, sir; they did not.

By Assemblyman YOUNG:

Q. Did you go to the companies? A. No, sir; they are the same companies, the Phoenix of London, they were the same companies.

By Assemblyman COLNE:

Q. Did they give that as the sole reason? A. On account of exposure, that is the sole reason. I had another policy, which I did not keep, it expired, an expired one, on the same property, also $24,000. You see each building has $16,000 insurance on, covered by these two different companies; the other is the Scottish Union and National. The old policy I did not keep. This policy had expired on October 31st, 1909, and expires now October 31, 1910. That is $240; a difference of $20 in those two policies. I cannot tell you just now why they made the difference of $20.

Q. Do you know if the present occupant made any changes of any nature? A. He has not. The lower floor is a stable, and the upper floor is a varnisher, kept by Mr. Grimer; it has always been that before my dad put up those buildings, that is thirty years ago this man has been in there, Mr. Grimer.

By Assemblyman YOUNG:

Q. Did you try to place your insurance in any other companies? A. No. I have been dealing with Mr. Barber for years; he does the best he can; he is a broker; that is his business; he tries the best he can to keep his business.

By Senator WAGNER:

Q. You say you are insured in two different companies? A. Yes, one the Phoenix and one the Scottish Union and National.

Q. And in each company for the same amount? A. Each company for the same amount.

Q. And they charge exactly the same premium? A. No. The one that was placed first in 1908 was $260, and the one that was placed when it expired, in 1909, is $240. Why there is a difference of $20 I cannot recall.

Q. You did not try to find out why that difference was? A. No; I did not give it a thought. I happened to read the paper this morning about the investigation, and thought I would go down here and see if I could get any satisfaction. That is what brought me here.

By Judge BRUCE:

Q. When did you go to the Fire Insurance Exchange; how long ago? A. This policy expired in 1908, December 7th, and when I received the new policy from Mr. Barber I went down and objected to Mr. Barber why the rate was made so high, so he says, "They claim on account of the exposure," and he says, "I will go over with you to the Exchange," so I went over there and they simply told me that this exposure rate would have to be raised. That is all the satisfaction I got.

FRAZIER M. DOLBEER, called as a witness, being duly sworn, testified as follows:

By Mr. HURRELL:

Q. Mr. Dolbeer, what is your business? A. Tobacco inspector and storage warehouseman.

Q. Are you connected with any trade organization? A. Yes, sir; the Leaf Tobacco Board of Trade of New York City and the Cigar Leaf Tobacco Association of the United States.

Q. You have lived in this city, have you, for some years? A. Well 40 odd years.

Q. And have you any position, official position, with those associations? A. Yes, sir. For the last four years I have been the chairman of the insurance committee of both of these organizations.

Q. You received from the chairman of the committee, in your capacity as chairman of the insurance committee, the circulars addressed to all business organizations early in August? A. Yes, sir.

Q. And in response to the request contained in that circular letter, have you a definite complaint to lay before this Committee, as to the method in which the tobacco trade is treated by the insurance interests? A. I am prepared to answer any questions that may be asked and to give information that may enable this Committee to apprehend the situation as it relates to our own business.

Q. What is that situation? A. The interests which I represent is composed of growers, packers, dealers, jobbers and manufacturers

of cigar leaf tobacco; and these interests represent all of those different conditions. Naturally it is necessary to insure the product. In the course of our experience we have found since the national organization was organized that a great variety of conditions and rates existed.

Q. You mean the national association of your trade? A. Yes, sir. Consequently the reports to the organization suggested the inauguration of an investigation, a committee being appointed, and different conditions were looked into. For instance, it was necessary to learn what conditions existed in different locations, being interested throughout the States of Kentucky, Massachusetts, New York, Pennsylvania, Ohio and Wisconsin, as States of production; and also various cities in which members of our organization were located, and transacting business; that is, their own offices and places of business. That resulted in revealing that there were in all of these different locations various methods of investigation and assessment of rates.

Q. By the same companies? A. Practically by companies doing business throughout these States. For instance, New York city, as we all know, is under,—it is in the province of the Board of Fire Underwriters, and the New York Insurance Exchange, to formulate and make regulations covering the inspection and assessment, etc., and all of the matters pertaining.

Q. And rates? A. Yes, sir. We find that in some States some locations, that there are bureau rates, rating associations; we also find in some sections that the rating is left entirely to the insurance brokers.

Q. Brokers are agents? A. So-called brokers, insurance brokers.

Q. Where does that condition prevail? A. That condition exists in Baltimore, to my knowledge. I don't know whether it exists in other locations. Then, we found that the minds of these various boards, associations and individuals, worked differently in different locations; probably based upon their experience, and what they considered to be their knowledge. Then we also found that in the matter of adjusting rates, that the same condition of mind, intellect, knowledge and experienec did not exist in all of these different locations equally. And various other matters were taken up; all those matters pertaining to insurance, fire insurance especially.

Q. Did you prepare a chart showing the difference in rates on the same products, under the same conditions, in the different localities you have mentioned? A. Yes, sir.

Q. Have you that with you? A. Yes, sir.

(Witness produces papers).

Mr. HURRELL: I would say, Mr. Chairman, that the witness has sent to the Committee a statement of this matter, together with certain exhibits, and I ask that the statement, together with the exhibits, be marked as an exhibit.

(Papers marked Exhibit L-1 of this date).

Q. Now, Mr. Dolbeer, will you call the attention of the Committee to some of those inequalities, under the same conditions as to exposure, and buildings, and on the same product, in these various locations you have mentioned. A. Now, if you will please allow me to explain that these rates which are tabulated cover a period between 1898 and 1910. We have not been able to tabulate the existing rates to-day in all of these different localities. These localities comprise New York city, and the principal cities in New York State, also of Connecticut, Massachusetts, Pennsylvania, Maryland, Ohio, Wisconsin and Illinois; and it is the opinion of our organization that this exhibit might be of help or might be helpful to you in determining, or rather as an illustration of the different conditions which exist.

For illustration, in 1905, what is known as the specific rate on tobacco, that is the assessment of a certain amount exclusive of what is known as basic rates, and building rates, and exclusive of any penalties, or any additions or deductions; that is, additions of the San Francisco penalty, if you please, or deductions for certain fire extinguishing apparatus which might exist in buildings. This pertains largely to storage warehouses. In 1905 the specific rate on foreign tobacco was 50 cents; on domestic tobacco 40 cents, and on hogshead tobacco 30 cents.

Q. Whereabouts was that? A. New York city, Manhattan.

Q. Now, in order that we may understand it: You say that the rates that you have just read in 1905 were the rates which might be called the ideal rate, where there was no additions because of any peculiarities surrounding the particular risk? A. Yes, sir.

Q. That is the base rate? A. Yes, sir, that is upon the article itself.

Q. And in your figures, you will not confuse your figures with any additions by reason of the application of the schedule; you are speaking now of the base rate? A. Not the base rate specifically; upon the article. The base rate is made up, based upon an inspection of the risk, which takes in construction, exposure and those things, that is the base rate.

Q. We have learned here, at the hands of insurance men, that the rate which you speak of as the base rate, was the completed rate, after all additions had been charged, and any credits by reason of fire extinguishing apparatus deducted. Now, then, let us understand each other. We will say this is the specific or ideal rate, without taking account of the charges, or taking off the credits?

Assemblyman COLNE: As applied to tobacco only?

Q. As applied to this product? A. This rate applies to the article itself and nothing else.

Judge BRUCE: No matter where it is?

The WITNESS: No matter where it is in New York city, so long as it is stored in a storage warehouse.

Judge BRUCE: Are those sprinkled warehouses, or does it have any reference to that?

The WITNESS: It has no reference to that condition. I am now trying to give you an idea how the rates operate; what they are upon the article itself.

Judge BRUCE: I think we understand it.

Q. Now, to prevent further confusion, take one class of property instead of taking three classes and proceed to compare one class; take domestic tobacco first. A. New York city in 1905, to domestic tobacco, specifically, 40 cents; in 1910 it was 80 cents; and on June 8, 1910, it was reduced to 60 cents.

Q. That would show a net increase of 20 cents, from 1905 to 1910? A. Yes, sir.

Q. Now take that same class of property, and apply the same charges that you have got there, and tell us what the rate in Boston was, for instance? A. Well, in Boston, domestic tobacco, 30 cents.

Q. That was in 1905? A. I haven't the date, but it was in my opinion within 18 months; again, the present rate in Boston on domestic tobacco is 40 cents. Forty cents is what it was in 1905 in New York city.

Q. Sixty cents is what it is in 1910? A. June 8, 1910, 60 cents.

Q. So there is a difference between New York and Boston of 20 cents on that particular line? A. On June 8, there was.

Q. Now, have you got an illustration of that same difference of conditions in other parts of the country, take Philadelphia, for instance? A. Philadelphia, the specific rate is 40 cents.

Q. The same as Boston? A. Yes, sir.

Q. How about Milwaukee? A. I haven't the specific rate in Milwaukee.

Assemblyman COLNE: Tobacco is no more combustible in Boston than it is in New York, is it? A. Leaf tobacco, seed leaf, or cigar tobacco is susceptible to the same conditions no matter where it is; that is the article itself. Of course you can add to that, exposure, or any other element.

Q. But we are not taking any of those things into consideration? A. No, sir. Now, supposing you take up foreign tobacco.

By Judge BRUCE:

Q. Give us the rate in Chicago? A. Chicago has no specific rate. The gross rate in 1908, in a private store, that is, a mercantile risk, was $2.30.

Q. That is of no value in making the comparison we are now engaged in, because that is the gross rate? A. So far as I can determine from my schedule the rate in Chicago, the comparative rate in Chicago was 83 cents in 1908, and 50 cents in 1910.

By Mr. HURRELL:

Q. Just let me see the schedule a minute (witness hands paper to counsel). We will take the next class then, foreign tobacco. A. Foreign tobacco, 1905, New York city, specific rate 50 cents; in 1910, $1. The same class of tobacco in Boston, within 18

months,—I think I am correct in saying,— imported tobacco in Boston, specific, rate 20 cents.

Q. So that there on the same product, there under the same conditions, you have a difference between the New York rate of $1 and the Boston rate of 20 cents? A. The rate of a dollar was on June 8 reduced, it was reduced to 75 cents; so that the difference between Boston and New York on the same product was the difference between 75 cents and 25 cents.

Q. And it is that inequality of assessing this premium for the same kind of insurance, of which your bodies is complaining? A. That is the condition we wish treated and overcome.

Q. To have the inequalities ironed out? A. Yes, sir.

Q. Now, you spoke of hogshead tobacco; can you give us any comparisons on that item? A. Well, hogshead tobacco, of course we haven't followed it up quite so closely, and I am not prepared to give you illustrations on that, excepting New York and Philadelphia.

Q. What is the difference there? A. In 1905—I will have to look at the regular schedule because that is not tabulated (Witness refers to paper.) In 1905 hogshead tobacco was 30 cents.

Q. What is that the rate of, New York? A. New York. In 1910, 60 cents; that is, the early part of 1910, and on June 8, 1910, 45 cents. In Philadelphia there has been no change, 30 cents.

Q. So the difference between New York and Philadelphia on that class is the difference of 15 cents? A. On June 8?

Q. Yes. A. Yes, sir.

Q. Do you know whether there has been any attempt to equalize that difference between June 8th and now? A. Subsequent reports, of recent action, may develop that. I don't know.

Q. That is you mean the action taken yesterday? A. Yes, sir; I imagine it will be a drawback to the rates — I do not know whether or not.

Q. What caused the reductions on the rate on the 8th of June or the 18th of June? A. Why, I believe it was brought about by our campaign of education revealing to the insurance companies conditions which they considered an effort on the part of parties in interest to have the rate reduced.

By Judge BRUCE:

Q. What was their answer to your protest that rates in New York were so much higher than they were in Boston, for instance? A. We have not taken that up specifically.

Q. Have you taken the whole subject up with the Fire Insurance Exchange of New York city? A. We have, with a view of organizing a plan of co-operation, intelligent co-operation, between the insurance companies or their representatives, whatever that body may be, and our trade.

Q. And how far has that progressed? A. In the submission of plans by the trade to the companies; various plans, some of which we have attached here in the exhibits which have, of course, never been matured; have never been seriously considered, or taken up and improved, or put into an acceptable condition.

Q. Well, upon inquiry, have they given you any explanation of why there should be such a difference in rates upon this specific article in New York or Boston, for instance? A. No, sir; we have not asked them, and they have not given us any replies, of course. But we have treated the subject generally, not with a view of learning the condition of their mind in regard to why these conditions exist, but we have learned for ourselves that it is occasioned by these different methods of rating.

By Senator COLNE:

Q. Well, Mr. Dolbeer, do you think that they have, or do take the ground that this difference of rate between cities may be based upon the conditions existing in these different territories; that is, there may be in Boston a better fire service than in Baltimore, or a still better one in New York, and that they take that as a basis and make the difference between the cities in that manner bear on the latter in that general way. A. A practical illustration: In New York city there is a building, which when completed, was assessed at a rate for insuring the building of about five cents a hundred dollars for one year. The gross rate on tobacco in that building amounted to about $1.06, which included — oh, I beg your pardon, it amounted at the time of the construction, when this 50 cent specific rate prevailed, a rate

of about 56 cents. Now, in Boston, in what I would determine to be a less desirable risk, the rate was much lower. Consequently your question as to general conditions, environment, if you please, does not enter into it, does not cover.

Q. I did not mean environment of building, but I mean general conditions existing as to suppression of fires, fire departments, etc. A. I am not prepared to make an absolute comparison, or explanation, and I think that in all probability Boston is quite well equipped.

Q. That is what I wanted to get at? A. Yes, sir.

By Judge Bruce:

Q. Well, why hasn't your association taken this matter up specifically with the Fire Insurance Exchange, and said to them, why, here, how is it you are charging us in some cases twice as much as you are in Boston on the specific rate on tobacco? We would like to know the reason? A. Because our object has been to organize an insurance bureau in connection with our national organization, for the purpose of treating every feature and condition of fire insurance, or if you please, extending beyond and taking in every kind of insurance, except life insurance, in which any of our trade may be organized. Our object has been to organize and equip, and co-operate in such a manner as to overcome in an intelligent manner, if you please, these very difficulties, with a view finally of organizing a uniform system throughout the States, and we are not so much interested at this minute in calling the Exchange, or any of the companies' attention to the difference in existing rates, as we are to work out this plan of co-operation, which if it is done, it will conserve the interests of all, and it will eliminate considerable loss in adjustment. It will save in salvage. It will reduce cost by eliminating unnecessary charges in adjustments, and in all other conditions, or rather, all other departments, to an extent that we expect we will be entitled to consideration on rates generally.

Q. Well, you are aware of course, that there is a different organization that makes the rates in the Metropolitan district in New York, than what makes the rates in Boston, which is an

excepted city from the New England Exchange; that is, it is not the same rate-making body? A. No, sir.

Q. Well, now, what is your idea that this Committee can do for you in this emergency in which you find yourself? A. We are here to-day by invitation of your Committee, to give such information as we can, which will enable the Committee, if possible, to suggest any legislation which may be necessary, or the introduction or suggestion to your insurance department, the State Insurance Department, as to methods; to call attention to our plan, and if possible, bring it to the notice of other States; and ultimately bring about what we wish to accomplish.

Now, for illustration, it has been said to us individually, not collectively, by insurance officials in private interviews, and I think in one instance in writing by one of the Exchange Committees, that the Exchange, that the insurance companies, did not consider that they had the authority to enter into an agreement of this kind. We insisted that it was a fair, equitable proposition, which would eliminate confusion, expense and all derogatory matter which might be connected with the business, and that as such it was a feasible proposition, and that as business men, or officials conducting an enterprise of such great importance, that they ought to be in a position to take up and consider it and treat it upon its merits.

Now, gentlemen, if you find that there is any legislation, or any laws on the statute book, which prevents these gentlemen from doing that thing, and this appeals to you, why then we say to you that if there are any laws, modify them. If there are any regulations which you can suggest to your insurance department, suggest them. Let us get together upon a common basis, and remedy — oh, I do not say any existing evils, but never mind that, but to bring about a reform. That is what we are after.

By Mr. Hurrell:

Q. The head office of this association is in this city? A. Yes, sir.

Q. Now, starting at this point to work from, what is involved in this plan you speak of? Take the question of rates alone, leaving out the adjustments and any other considerations that

might tend to reduce expense; leave out the idea of commissions on business written; take the question of rates alone. What would you suggest, or what does your plan suggest, that would tend to make these rates equal under the same given conditions in New York and Boston and Philadelphia, Wisconsin and Cincinnati and Baltimore, and Chicago, and all around? What definite suggestion does your plan contain? A. Our plan first treats, after the formation of an insurance bureau of the trade, that the different buildings in which tobacco is stored shall be subjected to rigorous inspection. We shall take into consideration any improvements that can be made in any building, anywhere, in any of these sections. We will suggest to the owners, by the way we are prepared to do that, to this bureau, which will be established in a manner so that it will be very easy for any one having a risk to have it inspected without any very great cost. Then we will suggest improvements, or we will then take up, if there is a question of construction of new buildings — we will take that up and treat that upon the very best methods of construction and equipment that can be known. We will have a regular tabulated file of all things pertaining to construction, and that will be at the service of anybody who will construct the building, or intends to, not relying as we have in the past upon our good friends, the architects, who generally overlook a lot of things. However, then it will be suggested that any plans of that kind shall be submitted to the insurance officials or their associations or bureaus or exchanges for their criticisms.

Then, furthermore, this plan, in order to reduce insurance, shall induce co-operation in a manner to save any money that can be saved to the companies, and the assured mutually, which can be done in my estimation, which will give an advantage to each, and reduce expenses, and reduce — to make such a reduction as will enable them to give us a construction in rates, taking a view of the product and other conditions in an intelligent manner. We feel to-day with these various bureaus that these various men do not know all of the circumstances.

Q. Well, now, let me see if I correctly understand you. It is that you expect, through a central bureau of leaf tobacco trade, to engage with the insurance companies and settle upon a like rate in these various localities for like conditions? A. Yes, sir.

Q. To agree upon a schedule of charges and credits that will be charged away, or deducted from any building in any one of these localities that deflects from the standard you adopt? A. Yes, sir.

Q. That, using your own inspection bureau in co-operation with the companies' inspection bureau, that that schedule will be observed? A. Yes, sir.

Q. Minutely in all of these places? A. Yes, sir.

Q. And that schedule being observed minutely, you ask the companies, or will ask them that the same rate be adopted in these various places under those given same conditions? A. Yes, sir.

Q. That is your starting point? A. Yes, sir.

Q. Now, take the question of commissions: What does your plan do as to that? Does your plan suggest that the writing of insurance by the various growers or owners that use your warehouses, or use the warehouses of the members that belong to the bureau, shall be written directly by the companies through some central point? A. The plan involves that the handlers of tobacco, parties in interest in the trade, shall place at least some of their insurance through this bureau. They will have that privilege; not obligatory. There will be one of two — we will give them an option, if you please, of paying a certain sum per annum into this bureau, or if they see fit, to place some of their own business through this bureau, not with a view of eliminating brokers; not with a view of interfering with anybody's business, but simply with a view of creating a fund to carry out this plan.

Q. To carry out the inspection bureau? A. Yes, sir; in fact, all expenses connected with it.

Q. Well, if you do not have all of the insurance of all of your members placed through this bureau, would not your plan break down at the point where some of it was placed through this bureau at a uniform rate, and some placed through local brokers at various points where a variety of conditions might concur to make a different rate at that point? A. We think not, because our aim and purpose is, and if not accomplished, why we would not attempt it at all, to establish a uniform rate which will govern, no matter who places the insurance.

Q. That is, you aim to bring to the companies' mind the information you have? A. Yes, sir.

Q. So that the Exchange in New York, and the board in Boston, and the board in Baltimore, and the local board in Wisconsin, the various rate-making machinery, shall adopt the same rate in various parts of the country for the same conditions? A. Yes, sir; that is our purpose.

Q. Now, what does your plan contemplate as to adjustments? You spoke of that as a way in which expense might be reduced? A. At the present time, the method of adjustment, in our estimation, is all wrong.

Q. In what particulars? A. We believe that all public adjusters, or go-betweens, which now exist should now be eliminated. Adjustments should be made directly between the insurers and assured by co-operation, eliminating the public adjusters, if you please, and any other method which may exist now.

Q. Well, that would be very simple if all of your members simply agreed to use the adjuster of your bureau in connection with the adjusters for the company. That would be easy, wouldn't it? A. Yes, sir.

Q. Well, that is something that you could agree upon now without anything being done by the companies, is it not? A. It is, yes.

Q. And do you pursue that plan now? A. We are not organized entirely for it; we are not equipped for it.

Q. Well, that is something that affects you rather than the companies? A. I am not prepared to answer that question.

Q. Well, all there is to it is that you hope to work out a plan whereby you will have some person representing the bureau, take care of all the losses sustained by your members in adjusting the losses with the company? A. Our purpose is to adjust along those lines.

Q. Yes. Is there anything else that we have not covered here that you think of?

By Assemblyman Young:

Q. When you speak of adjustments, do you speak of adjustment of rates or losses, or both?

By Mr. HURRELL:

Q. Latterly here you have been speaking of adjustment of losses? A. Yes, sir.

Q. When you spoke before of adjustment of rates, you meant you were going to try and get the companies to level off these rates? A. To clear the mind of the Committee, I might say this in regard to adjustment of losses, if it is possible to eliminate a public adjuster who may know more or less, or a whole lot or nothing about a specific article, and you introduce a man or men, —take, for instance, there are twenty kinds of cigar leaf tobacco, at least, and the trade is able to produce some one man who is particularly conversant, and has an intelligent knowledge and experience, both of values, grades, crops, under which that particular tobacco which may be in a loss has been subject to, he can more intelligently adjust the loss than a man who knows nothing about that, and it can result in a saving to the insurance company.

By Judge BRUCE:

Q. Who do you purpose that he shall represent, the assured or the insured? A. The assured, co-operating with the insurer.

Q. Well, you will have your adjusters, who are experienced tobacco men, and the companies, or the Exchange will have its adjusters, won't it? A. The present method is for the Exchange to inquire, as I understand, to inquire of some person that they know in the trade, who is the proper man for us to select specifically for adjusting a loss, and they depend upon the recommendation given by a friend. In our opinion, they do not always secure the men best adapted to that. Now, I speak of this, not because—I know you have in mind that that man is acting for us, but incidentally, that man is acting in the interest of all concerned, because there will be a better intelligent adjustment for the benefit of all concerned.

Q. That is, you hope to have the insurance companies agree with you upon a list of adjusters, who, in event of loss, will be called in to adjust it? A. It will be arranged that specific adjusters shall be selected specifically for the occasion which arises, and submitted for approval. It is impossible to create a board of adjusters in my

opinion, by a previous nomination throughout, because different conditions will arise at different times.

Q. How much insurance do your members carry; have you any idea? A. Why, I am sure I do not know. I know right in my own buildings that we have approximately about $6,000,000 of value.

Q. You think this method that the companies adopt of organizing a rating bureau, such as the Exchange, works generally in the interest of merchants or against their interest? A. Such a rating bureau, as the New York Fire Exchange, properly conducted, and their theories and methods properly carried out, is a benefit to the community.

By Senator Wagner:

Q. Is it your judgment that the Fire Exchange of the city of New York is properly conducted? A. In my opinion there is opportunity for improvement. They have acknowledged to me that the New York Fire Insurance Exchange is still in an experimental period. They have not been able to complete and carry out all of their intentions or their proposed methods, for they are willing to learn, and they are willing to adopt, and they have acknowledged that to me when we have brought to their notice various things which we thought were essential for them to know, and for the benefit of all concerned they have said, thank you, sir; anything more we will be glad to receive, and we are glad to profit by it, and the Exchange, as I say, properly carried out in their theory and methods, that is to a finish, to a final, is certainly better than each individual company endeavoring to establish and tabulate all of the information that is possible for the Exchange together.

By Senator Colne:

Q. Do you think that they have willingly learned something in the one specific kind of tobacco? They have raised on one specific kind from 40 cents to 80 cents, and then put it back to 60. Do you think they have learned something? A. I think so.

By Judge BRUCE:

Q. You say "Properly conducted." What do you mean by "properly?" A. I think we will all concede this: That one may well inaugurate theory or method which covers an immense territory, or rather involves considerable labor; that one man cannot carry it out to the finish; consequently, it is delegated to other men who are in the department, and in my opinion, the method and theory as adopted, and intended to be carried out is not always carried out properly to a finish.

That is demonstrated, if you please, in what we call our schedules. Very often we find by an examination of a schedule that they are subject to correction. Now, the Exchange makes the correction. It is not any error that creeps in; it is not vicious or intention, but it has crept in. Consequently, I say we might apply to other things, in connection with any orgaization, any business, but properly carried out, in the last analysis, if they are susceptible to suggestions by people or experience, why the Exchange is a good thing.

Q. You mean suggestion of review? A. Both.

Q. Now, when you say "properly conducted" assume that you mean that compact is a good thing in the event that those who are engaged in it act equitably and justly as between the assured and the insurer? A. Yes, sir.

Q. I know, but how are you going to determine whether they have acted justly and equitably, unless you have a court of review? A. In my own opinion a court of review in connection with any organization or any busiess, is the very best thing that could be adopted.

Q. Ad if the government allows them to combine to control the price of a necessity it should insist that there should be some governmental agency that has the right of review and regulation? A. Yes, sir.

FRANK H. HARDISON, called as a witness, being duly sworn, testified as follows:

By Judge BRUCE:

Q. Where do you reside, Mr. Hardiston? A. I reside in Massachusetts.

Q. And you are the Superintendent of Insurance for the State of Massachusetts? A. Insurance Commission.

Q. And how long have you held that position? A. I have held that position for three years.

Q. Mr. Hardiston, we have had down from your State several gentlemen who are officially connected with what is known in your State as mill mutuals, and also gentlemen who are connected with your mutual union, with the miscellaneous mutuals. The Committee would like very much if you would give them the benefit of your experience and views with relation to the operation of miscellaneous mutuals and also mill mutuals in your State, and I will ask the question generally in that way so as to give you the widest opportunity, if you like, to give us the benefit of your experience along those two lines? A. I should much prefer you would put definite questions as to what lines you would like to touch upon.

Q. First, let us take up the question of mill mutuals in the State of Massachusetts, first, in relation as to how extensively they operate in your State, how long they have operated, and with what satisfaction their operation has been to the State authorities? A. In regard to the length of time that they have been operated, some of them have operated at least forty years and I think a little more; I don't remember just the date that some of the oldest of them began, and those oldest ones have been in continuous and successful operation since they began; the Boston Manufacturers Mutual, for instance, which was Edward Atkinson's company when he was alive, he was the president of it. It is a company that has acquired a large surplus, and it furnishes insurance upon a special class of risks at a very low rate. The initial premium is large, but the company returns dividends, which are calculated monthly, of about 90 per cent. It does a large business in Massachusetts in its special line, and a large business outside. These figures we all have in the reports, but I cannot carry them in my head so I can give you a statement exactly of what proportion is done in Massachusetts and what proportion outside.

Q. Have you in mind what proportion of the mills in Massachusetts, the risks, are carried in the mill mutuals? A. I have no information on that subject.

Q. Would whatever information you have lead you to believe it was a large proportion of the risks? A. I don't know that I could say that. Some of the mills won't take the trouble and be at the expense of putting their plants into such a condition that the mill mutuals will accept them as risks.

Q. The matter which the Committee has in mind is the recommendation to the Legislature of the passage of an act admitting the mill mutuals to do business in this State. Would your experience as a commissioner in the State of Massachusetts lead you to recommend such action on the part of our Legislature? A. I would. We have been glad to welcome mill mutuals of other States that were up to the proper standard in Massachusetts, and we have mill mutuals from Rhode Island, quite a lot of them, and one or two from Pennsylvania, operating in Massachusetts, admitted under the laws of the State.

Q. That is, you would recommend their admission into other States under the same conditions and regulations which are imposed by the State which regulates their admission to do business in the State of Massachusetts? A. Yes, sir.

Q. Now, take up the question of your miscellaneous mutuals. What has been your experience as a State official with reference to them, both as to the extent of their operation and its efficiency? A. We have a class of mutuals that have been doing business for a great many years, some of them are nearly 100 years old, and have been in continuous business. They have furnished good insurance in Massachusetts at a low rate. They have confined their business mostly to what is known as preferred or protected risks. They have not done a great deal of business in the commercial line, and only that of the best character. The result is that their loss ratio is kept well down, and they have most of them accumulated quite a surplus, which is held for the protection of the policy holders, and they are furnishing satisfactory insurance at a satisfactory rate.

Q. And would your experience lead you to recommend their admission under the same regulations that are imposed in your State, into other States, to do business, including our own? A. Well, I would say this, that, for the purpose of permitting some of our companies to get into other States where they found ter-

ritory laws, our law was modified some two or three years ago, letting down the standard of admission of companies into Massachusetts of a mutual kind. That I did not approve.

Q. What was that modification, if I may inquire? A. It was a modification of the amount of funds or assets which such a company must have in order to secure admission. Just the details of those modifications I have not in mind; it is a little complicated.

Q. Has there any undesirable results followed this lowering of the standard? A. There has not a company from another State applied in Massachusetts, not a mutual company from another State applied in Massachusetts under that lowered standard.

Q. Do I understand your experience has been that those miscellaneous mutuals are furnishing satisfactory insurance along the lines in the boundaries in which they operate to the people of your State? A. That is the case with these old miscellaneous mutuals. We had a class of miscellaneous mutuals that were authorized to transact business under the law, that undertook to do all kinds of fire insurance business that a stock company would do, and they were started, not for the purpose of affording protection to the members, but were started by parties with commercial views simply to make money out of the commissions they could get. We had ten or twelve — no fifteen years ago, we had a large brood of those, and at one time there were six or eight of them in the hands of receivers, and every one that started in that way went into the hands of receivers. The method adopted was for a large agency to start a mutual fire insurance company. They would have no trouble in getting one launched, and then they would take everything that came to them, that was offered to them, from any agency, and make what they could out of it, and run the company for a few years, and make for that agency a large amount of money in commissions. That was attempted to be regulated by providing that the one, that the official who passed upon the insurance should not be paid by commission but be paid by salary. That helped the matter somewhat; but the damage had been done prior to the time that the Legislature made that change in the law, and every one of those companies that

were started for that purpose in that way went into the hands of receivers. So there is a danger from them if they are not started in the right way by the right people; but our old Massachusetts Mutual Fire Insurance companies that are in the business for the benefit of the members are successfully furnishing satisfactory insurance at fair rates.

Q. Under your act as it now exists permitting mutual companies of other States to do business in your State, no such company could enter? A. What do you mean by "no such company?"

Q. Companies similar to the ones you have described just now. A. No, they could not, because they would not be up to the standard.

By Mr. HURRELL:

Q. It is possible, Mr. Hardiston, that the additional burden that you have just spoken of, of the man who passes on the insurance should be paid by salary instead of commission, with that addition, is it possible to-day to organize a mutual company in your State of the class that you have just described as having gone into the hands of receivers, or has there been any further amendments to your mutual statute? A. There has not. It would be possible to organize a company, and I will say to organize a mutual company in Massachusetts and set it going requires the going through the method or incorporation provided by the statutes, and this requires that before they issue any policies they must have applications for at least 400 risks covering not less than $1,000,000 of insurance. When those applications covering that amount of insurance have been received, and the company gets a certificate from the Commissioner to that effect, then they can begin to issue policies, that is for domestic companies.

Q. Did these mushroom companies that you have just spoken of comply with the section? A. Yes.

Q. They did? A. Yes.

Q. Do you think that evil could have been avoided if there had been a standard of gross premium adopted so as to force those companies to charge a large enough gross premium to furnish them with assets, something on the plan or after the fashion of the mill mutuals? A. I don't know just how to answer that question. I do

not think that under the present situation in Massachusetts that it would be so easy for mutual companies of that class that I have described to get started, and get under way as it was at the time that those were started, because our experience there has led people to be somewhat wary of that kind of insurance, and agents are not so ready to give to that class of companies the business as they were then, and about the only business that they could get, I should imagine, would be risks that nobody else wanted or would take.

Q. Do you remember whether at that time there was any cutting of rates by these new mutuals in order to get the business? A. Oh, there was. They not only got business in Massachusetts, but they went outside of Massachusetts and in States where they were not admitted and got business; and that leads me to state further, that there was about that time a provision inserted in the law to the effect, or imposing a penalty upon any company that went outside, to appoint an agent, or gave compensation to anyone outside of Massachusetts for business, unless the company was regularly admitted to the State where that agency was established. And that has helped materially in this matter, also shutting out these companies.

Q. Do you see any possible harm that might come to your miscellaneous mutuals, if they spread out, beyond the borders of Massachusetts, and gained admittance in other States? A. Not if they will preserve their present standard of underwriting. In fact that might be an advantage.

Q. That is what has been said here. A. In spreading the risks.

Senator WAGNER: Commissioner, does the law regulate the question of the collection of surpluses by these mill mutuals? A. No.

Senator WAGNER: They can gather up and hold as much surplus as they like?

The WITNESS: Just as far as the law is concerned.

Q. And the collection of this large initial premium is to a considerable extent, to aid the companies in not having to make an assessment, is it not? A. Yes. That renders it all the more unlikely that there will be an assessment. You see those contracts and the by-laws of the company, of the mill mutuals, always pro-

vide for an assessment of at least five times the cash premium, if necessary; so the very large reserve to fall back on in case of heavy losses covers the case, and the companies do not have to make an assessment.

Senator WAGNER: I ask that merely because I am a little curious to know what is eventually going to become of that surplus, under the theory under which these companies are organized.

The WITNESS: If the companies continue, it is going to be there for the protection of the policy holders.

Senator WAGNER: I understand that the theory is that they were to get back, the insured is, at the end of the insurance or calendar year, whatever is not paid out in losses and expenses; that that is to be returned to the particular policy holders at that time; that is the theory of the mutuals as I understand it.

The WITNESS: Whatever the directors see fit to divide among the policy holders, retaining enough to make a reasonable fund for the protection of policy holders.

Q. Is this the theory, that the mill mutuals return, whenever a policy expires at the end of the month,—their policies run so a certain number of the policies expire at the end of each month? A. Yes.

Q. And then at the end of the fiscal year, if that policy is returned, whatever is returned is figured out of the funds then on hand, and computed on at the end of each month? A. They make the computation at the end of each month.

Q. And then you return to the policy holder what is unused out of his premium, speaking of the mill mutuals, if he does not care to renew, and go on? A. You say, what is unused out of the premium?

Q. I mean a return of the excess? A. Your dividend would amount,—at the end of each month they determine what amount of dividends will be paid, and that dividend has been in the vicinity of 90 per cent for a long time; in the case of the Boston Mutual, I am speaking of, I think since the establishment of the company it has averaged in the vicinity of 90 per cent. So that it has cost the policy holders, that is those who have been persistent in the company, only about 10 per cent of their original premium per year to pay for their insurance. Of course that leaves out of ac-

count the fact that in order to become insured in the company they must make a large,—they must pay out a large initial cost, in putting their plant into the condition so the company is willing to insure it.

Q. And each individual policy holder participates in the excess of the funds of the company that the company may have on hand at the time when his policy matures? A. Yes, that is probably nearly true. The excess fund that will go to pay back the policies that hereafter mature, supposing the company should go on taking policies, a large proportion of that surplus they have at any particular time would have to be used to pay the policies that mature heerafter. So, if they went out of business and paid all their policies, the surplus wouldn't be anywhere near as large as it is now; if that answers your question.

Q. Is there any different practice in the miscellaneous mutuals; do they carry a surplus as such, an account only at the end of the year, account at the end of the policy year? A. Yes, the policy year; and they write a lot of five-year policies, and there the accounting on those comes at the end of five years.

Q. So in conclusion, their whole surplus, if they should liquidate the company, belongs to the present policy holders? A. Yes.

Q. The policy holders that went before having gotten what was coming to them? A. I think there have been decisions in the courts to the effect that the surplus of the companies does belong to the present policy holders.

Q. What the Senator has in mind, I think, was the fact that a witness here testified the other day, that in the old days, in this State, it was the custom for the mutual company to continue to accumulate a large surplus, and then stop writing business, within the territory and take the surplus. Is that what you had in mind?

Senator WAGNER: That was one of the things. I wanted the whole thing cleared up in my mind. It isn't very clear to me yet. When a policy holder gets back 90 per cent, as you say, of the amount he originally paid as a gross premium, isn't a part of that 10 per cent withheld, put into this surplus fund?

The WITNESS: Possibly.

Senator WAGNER: It does not represent only the actual fire loss and expenses for conducting the mutual companies, but isn't there

something in addition, included in that 10 per cent which goes into this surplus?

The WITNESS: Probably there is but probably not such a large amount. Now, for instance, they put it this way. One of those mutual companies, we will say, has what appears to be a surplus of $500,000; and it has on its books a large amount of risks in force that must be continued until the policies mature, each month. Now, let us suppose they are not taking any new risk whatsoever: at the end of each month, certain of those policies will mature, and they will pay a 90 per cent dividend on those policies; and that 90 per cent dividend has to come out of this $500,000 surplus. And so it will continue through the months until the last policy has expired, paying 90 per cent on each set of policies, as they mature each month. Out of this $5,000, when they get down to the end if there is $100,000 left, it would be determined what would be done with that. There might be only $50,000 left. Just what would be left is what I cannot tell you.

Senator WAGNER: What is going to become of that $100,000?

The WITNESS: If a company should go out of business it would be left to the courts to determine what should become of it. There has never been an instance of that kind in Massachusetts.

Senator WAGNER: That is what I want to find out.

The WITNESS: There has never been an instance in Massachusetts where a company went out of business, having such an amount on hand to be distributed.

Judge BRUCE: It would be very small in any event, as compared to the amount of premiums that had been returned?

The WITNESS: Probably yes, if they paid their losses. There have been companies that have gone into the hands of receivers that haven't had enough to pay all the losses.

Judge BRUCE: Any further questions, Mr. Chairman?

Senator WAGNER: No.

Judge BRUCE: I thank you, Mr. Hardiston, very much, for appearing here, and for the information you have given us.

S. A. Reed, previously sworn, recalled for further examination.

By Judge Bruce:

Q. Are there some matters you wish to add to the record, not included in your former examination? A. Yes, sir. I made one statement. I was asked whether the minimum rates for frame protected dwellings were 50 cents for three years in the Surburban Fire Insurance Exchange over the entire territory, and I replied, yes. I should have qualified that by adding, that with the exception of the city of Yonkers, where the rates are 40 cents for three years.

Then I was obliged to defer making any specific comment on the testimony of Mr. Kiefer, of Freeport, until I could examine our records, which I have done. I made some general statements in reply to them. I found upon investigation of our records that this party's former location was 302 and 303 South Main Street, where his first rate was 75 cents for one year, under the "General Minimum" or classification rate which went into effect December 3, 1907, and was to apply until the various towns should be inspected and specific rates determined.

Q. That was at the time of the organization of the Exchange? A. Yes, sir.

Q. And where was that rate taken from? A. That was taken—that rate was taken from the table of general minimum rates, voted by the members of the Exchange at their first meeting.

Q. Then it was not really taken from anywheres; it was fixed at that time? A. I don't know.

On September 21st, 1908, the specific rates for Freeport were published, account having been taken at that time of the surroundings of each risk, which could not be taken account of when the first step was taken, and Mr. Kiefer's rate was made 90 cents on account of a frame stable adjoining a few feet distant at No. 301 1-2.

In February 1909 a large frame opera house having been erected immediately adjoining Mr. Kiefer's rate was advanced to 1.50, and the rate on merchandise stocks in that building are still at that rate.

Later on Mr. Keifer moved to No. 306 Main street, in which

building all merchandise stocks have been rated at 1.35 since the above stated first publication of specific rates for Freeport, September 21, 1908, and this rate applied necessarily to Mr. Kiefer's stock. The reason for the 1.35 rate is that the building is in a frame mercantile row between a livery stable and a printer.

Silas A. Williams, 307 and 308 1-2 south Main street. Mr. Kiefer quotes the case of this party, and we find that the specific ratings of Freeport, September 21, 1908, made his rate 1.50, at which it has remained ever since (not 2.02 as quoted). This is a large frame livery stable, being a class customarily rated much higher, that is to say, about Mr. Williams, his risk is a large frame livery stable.

The harness maker quoted by Mr. Kiefer is probably the one at 304 south Main street, and the original minimum or classification rating applying from December 3, 1907, was 75 cents, but the specific ratings for Freeport published September 21, 1908, made the rate 90 cents on account of a stable adjoining, at which figure it remained until the erection of the large frame opera house above referred to immediately adjoining, when the rate was made 1.50, the opera house being 2.25.

Charles P. Smith, druggist, also quoted by Mr. Kiefer in frame building 318 South Main street. Original minimum rate from December 31, 1907, was 75 cents, and specific rating of September 21, 1908, was 1.25, on account of long frame row extending all the way to Pine street. Recently a large street has been cut through, and the greater part of this frame row cleared away, and we have been taking up the remaining buildings for reduction of rate in view of the improved conditions. The stock in the brick building No. 315 was reduced a short time ago from 1.25 to 75 cents, and the reduction for Mr. Charles P. Smith is to follow immediately; is in process.

Mr. Kiefer is therefore in error in several particulars, first, that the rate was reduced from $1.50 to $1.35 on his individual complaint. The fact is, he removed from the $1.50 building to the $1.35 building.

Second: That the building exposing his building was 300 feet away. It is a fact that the opera house is nearly 200 feet from his present building, but his exposure is based not on the hazard of

the opera house, but on that of the livery stable and the printer immediately adjoining on either side.

Third: That there has been no fire in Freeport in the last year or two to amount to over $100, within the corporate limits of Freeport. That was Mr. Kiefer's statement as I obtained it from a stenographic report here, not the official report. Mr. Lucas testified (according to that same report), Mr. Lucas testified of two fires in the last two years aggregating $4,500 and a number of small ones. Mr. Kiefer testified that the population was about 5,000. We have no exact figures for the premium receipts per year from Freeport, but $15,000 per year, $30,000 for two years, would be a very liberal estimate; probably 50 per cent too high; and these two fires alone $4,500, would need a rate of over 6 per cent to pay the fire cost alone without any loading for expenses.

Fourth: Even after the discontinuance of any insurance agent or broker in Freeport, or the discontinuance of a representative by any insurance agent or broker of any non-exchange company, from whom Mr. Kiefer or his neighbors could obtain non-board insurance, Mr. Kiefer could have got such insurance easily in New York city.

Q. He could have obtained it here in New York? A. Yes, sir.

Q. In what company? A. I may have my own ideas, but I don't know that I should be called upon to advertise the opposition.

Q. What you mean by that is, there were non-board companies in New York writing risks in Freeport? A. Yes, sir, and they are to-day.

By Mr. Hurrell:

Q. Did you look up Mr. Eagan's property at Rockaway Beach? A. All I can say is that the rates at Rockaway Beach, including Mr. Eagan's property, were a conflagration proposition, as I stated before.

Q. I didn't know we had gone into that before. A. I have nothing further to add to that, excepting that we constantly are investigating and re-inspecting the territory, and if we find after a reasonable period of time that we have over-estimated the hazard and exposure we will correct it.

Q. Do you have any difficulties in getting companies to go on

a risk at 3 per cent? A. My belief is that 3 per cent they will accept it, but at any considerably lower rate there would be difficulty in obtaining the insurance.

Judge BRUCE: The general complaints with reference to Freeport was that after the Exchange was organized in 1907 the rates largely advanced from what the companies had been writing risks there for prior to the organization of the Exchange. Now is that true?

The WITNESS: I replied to that quite fully in my original testimony, and I cannot add anything to what I said then.

Q. You have added something to-day? A. I have given facts with reference to the specific rates to which Mr. Kiefer referred, only to show that there was a specific reason for the specific cases to which he referred; that they were not a blind, indiscriminate advance; that they were based upon conditions which were ascertained, and which entered into the calculation.

Q. That was four specific pieces of property, wasn't it? A. Yes, sir.

Q. And in each case the September rating, when the Exchange took hold, shows an advance of something between 25 and 50 per cent on those four specific pieces? A. Over the class rate which was promulgated at the organization of the Exchange and in which a rate was applied by classes, irrespective of surroundings; the surroundings in each case had, of course, to be ascertained, and that inspection of them took a few months.

Q. That is to say, on the properties of the class rate, if there was an ideal community, with no long rows of frame buildings, and fire protection and everything of that kind, the class rate would have been left on them? A. Yes. But when it comes to a long row of frame buildings, livery stables, frame opera house, and things of that kind, the schedule made them advance, as you have described? A. That is it exactly. Furthermore, the original rate of 75 per cent, which is the class rate for a stock of merchandise in a building of that certain kind, continues to apply on a large part on a very large number of risks where the surroundings are not found to be hazardous.

Q. Take an ordinary frame row of buildings, and a mercantile stock; a risk at the end of the row; how much does that enter into

this question of hazard, as figured out in these schedules; that is figured in these schedules? A. Yes, sir.

Q. Now, as a matter of fact, is that a hazard, or has there got to be a printing shop, a plumbing establishment, an opera house or something else? A. The mere fact of a long frame row is a condition of hazard.

Q. Suppose the frame row is broken up by a brick house scattered in once in a while? A. That would make a difference.

Q. The idea there is, that the brick house will probably stop the fire spreading? A. Yes, sir. The building at the end of the row has a lower charge than a building in the middle of the row. The exposure charges in frame rows is an old problem in underwriting, and is capable of, and has been solved in some slightly different ways, in substantially different ways, by different students of the subject.

By Judge BRUCE:

Q. Have you any data to show how much advance was made at the time of the organization of the Exchange over the rates in Freeport, in comparison to the rates which had been charged by the stock companies prior to the organization of the Exchange? A. No.

Q. Well, that is the trouble with the people of Freeport. They say that when the companies organized, went into the suburban Fire Insurance Exchange, they hoisted the rates; and if they could afford to write the risks prior to the organization of the Exchange at these rates, there wasn't any reason why they shouldn't write them afterwards. A. Of course I claimed in my original testimony, that my understanding was that the rates at which the companies were writing in portions of our territory, if not in the entire territory, were unprofitable rates, and they continued during the period under which the companies were operating without regulation among themselves, on account of the fact that certain companies had expensive agency plants established in that territory which they chose to continue and take their chances on the future.

Senator WAGNER: My recollection is, as Judge Bruce said, that that is just what the complaint was, that the rates had increased after your suburban exchange was formed, and these speci-

fic cases were only incidental to the main complaint. Yet, you are in no position now to show us by facts and figures that at the time the Exchange was formed, or at least before the Exchange was formed, the rates of premium charge made it a losing proposition for the companies. You just come here and give us your general understanding with reference to that. But the Committee is in no position to decide that question without the facts and figures before it.

The WITNESS: I stated in my former testimony that I could not furnish any such figures. At that time I was asked by counsel to obtain, if possible, from the companies, members of our Exchange, such figures as I could obtain in that direction — in the direction in which you inquire. I have issued such request to the companies, and will be glad to present to the Committee such replies as I received.

Judge BRUCE: Which we will appreciate.

Senator WAGNER: It seems to me strange that the company should be so reluctant about that; because, no doubt, when they increased the rates, they must have had before them the evidence that the premiums as charged made the investment a losing proposition; and having figures at that time upon which they made the advances, it seems to me it would be very simple for them to prove the fact that the rates were too low.

The WITNESS: I think, as I said before, different companies differ in their policy with regatrd to their data, their experience. You will find the personal element comes in there.

Assemblyman COLNE: They have given it to you, haven't they?

The WITNESS: No, sir.

Assemblyman COLNE: How did you arrive at the fact that they were losing money?

The WITNESS: As I said in my former testimony, that was an estimate, a general estimate.

Assemblyman COLNE: It was purely an understanding?

The WITNESS: A belief on my part, evolved from general reasoning.

Assemblyman FOLEY: Besides, they told you so?

The WITNESS: Yes.

Senator WAGNER: You could surely satisfy the citizens in

regard to their insurance very much better if they were given facts and figures to prove that contention?

The WITNESSS. I will say this, Mr. Chairman, I am reluctant to say anything personally which will commit my organization. You can possibly realize the position I am in in that matter. But I don't think I would be far out in saying that the total difference of rate, the average difference of rate upon the average rate prevailing before the formation of the Suburban Fire Insurance Exchange in this territory, does not exceed 20 per cent, and maybe is as low as 15 per cent. In other words, it is somewhere between 15 and 20 per cent.

By Judge BRUCE:

Q. What was the amount of premiums collected in your territory last year? A. A little over $3,000,000.

Q. And that would be an advance of about how much? A. $600,000.

Q. That is a pretty large advance? A. A 20 per cent advance from an unprofitable period, I think would be generally considered by underwriters as a minimum, an extreme moderation. I believe that the purpose that the Suburban Fire Insurance Exchange, which they deliberately hold in view, is that the business should be placed simply on a moderately satisfactory footing, so that well conducted companies could make a reasonable normal profit, no more.

Q. Of course, that proceeds on the assumption that it had been unprofitable before? A. Which, I believe to be the case.

Senator WAGNER: I should think you could appreciate the position of this Committee; we have a lot of these citizens coming to us and complaining that their rates have been increased and naturally seeking an explanation, to which I believe they are entitled. Now, the only answer to each question given us by the insurance companies' representatives, is that the representative tells us that he understands that before the rates were increased there was a loss to the insurance companies. Now if you went into court and made any such contention you would not stay in court very long. I, as a citizen, would not consider that a very satisfactory explanation.

Assemblyman COLNE: Further, from the fact that you have had in hand facts, or data, from which you have formulated these rates, or advanced them, it seems to me that they might be again produced here.

The WITNESS: The companies individually had the data, undoubtedly to a great extent. But there were no statistics furnished the Exchange as an organization.

Assemblyman FOLEY: The rate committee is composed of representatives of the various companies?

The WITNESS: Yes.

Senator FOLEY: And these men, personally, probably not in a representative capacity, as members of that committee, had the information about the loss which made the then rate unprofitable? A. They did.

Senator FOLEY: But there is no official record in the Exchange of the losses upon which those increases were based?

The WITNESS: No. I have, however, asked at the request of counsel, the companies to furnish me, if they will do so, that information.

By Mr. HURRELL:

Q. Mr. Reed, one of the members of the Committee is interested in finding out about the Westchester County Board of Underwriters. Can you enlighten us with what you know about that organization; and whether the Suburban Exchange is an influence in urging members to go in there, to become members of the Westchester county body, by the rules and regulations of the Exchange? A. In my original testimony I was asked with reference to the local boards.

Q. Yes, that was asked, generally. A. And I stated that local boards had been organized in each county, consisting of the agents representing the companies, members of the Suburban Fire Insurance Exchange, and that has a model, found in the manual of rules, which was put in evidence, one of the articles of the companies' agreement is that the companies of the Exchange shall organize a local board in each county, consisting of such agents.

Q. And the Exchange did organize this board in Westchester? A. And the Exchange did organize a board in Westchester county.

Judge BRUCE: What powers and duties have they, Mr. Reed? A. The powers and duties of that board are expressed in the mode form of constitution which was furnished the Committee. I am not quite sure that you placed that in evidence; you did not place the entire manual in evidence, and I am not sure whether that was included. That was a model form of local board constitution. And the duties and functions of the local board are very limited. They are as I stated in my former testimony, they are confined mainly to disciplining their members in case of charges of rebating.

Q. Is this statement true, I read from a letter furnished by a member of the Committee, written to him by a gentleman in Tarrytown: "The agents are compelled to agree not to write in outside companies, not belonging to the combination, and not to insure for any less rate than that fixed by the companies." Is that statement true? A. The first part is not true, and the second part is true. That is to say, they are not obliged to agree not to represent any but Exchange companies. As I stated in my previous testimony we have no separation rule. Such a regulation would be a separation rule, and we have particularly not got a separation rule.

Judge BRUCE: Are they required to give your companies the preference?

The WITNESS: No, sir.

Judge BRUCE: Not the same as the brokerage here?

The WITNESS: Not the same as the brokers; they are only pledged to maintain the rates of the Suburban Fire Insurance Exchange, for all companies, Exchange or not Exchange.

Q. Did you state in your former testimony that there was any additional commission if they placed business for the members of the local Exchange, placed the business with the Suburban Exchange members of the local board, rather than with members of the local board representing Exchange and non-Exchange companies? A. No, sir, on the contrary the local agent member of the Westchester board, for example, might represent say three Exchange companies and two non-Exchange companies, and would be strictly limited to 20 per cent from his Exchange companies and he might get from his non-Exchange companies what he chose. The chances would be he would get considerably higher commissions.

Q. The only thing he is held down to is to charge the prevailing

rate of the Exchange? A. Yes, and also that he shall observe the brokerage rule of not paying in excess of a 10 per cent brokerage fee, and only to certified brokers.

Mr. Hurrell: That is all.

Senator Wagner: The Committee will stand adjourned until to-morrow morning at 10.30 o'clock.

Adjourned to Friday, December 16, 1910, at 10.30 A. M.

THIRTY-THIRD PUBLIC SESSION OF THE LEGISLATIVE INVESTIGATING COMMITTEE.

ALDERMANIC CHAMBER, CITY HALL.

NEW YORK, *December* 16th, 1910 — 10 A. M.

Present — HON. EDWIN A. MERRITT, JR., *Chairman.*
HON. ALEXANDER BROUGH, *Vice-Chairman.*
HON. JAMES A. FOLEY.
HON. FREDERICK R. TOOMBS.
HON. ROBERT F. WAGNER.

HON. M. LINN BRUCE, *Counsel.*
ALFRED HURRELL, ESQ., *Assistant Counsel.*

Chairman MERRITT: The Committee will be in order.

MAURICE AILON, called and sworn as a witness, testified as follows:

Examined by Mr. HURRELL:

Q. Mr. Ailon, where do you live? A. 756 Forest avenue.

Q. New York city? A. Yes.

Q. What is your business? A. I have been an insurance man, and at present I am a commercial traveler, at least salesman, for the Metal Box Strap Company.

Q. How long were you employed in the insurance business? A. Fourteen years.

Q. In what capacity? A. As broker.

Q. In this city? A. Yes, sir.

Q. Have you a complaint you wish to lay before this Committee? A. Yes, sir.

Q. What is it? A. It is this: That I have, when the Fire

Insurance Exchange started, I thought, as a broker, that the brokers were going to form a society among themselves to keep dishonorable men out. And we were to pay a fee for that of $2.50 a year. I ageed to that at the time, but I found later that I was dealing with what I considered to be the biggest financial trust in the world.

Q. Who were you to pay this $2.50 to, the brokers' association at all? A. It was the Fire Insurance Exchange.

Q. I thought you started to explain there was a brokers' association formed? A. I thought there would have been formed, but it was not. I found out later we were in the hands of the Fire Insurance trust.

Q. You paid $2.50 for your license? A. Yes.

Q. How long were you a broker, licensed by the Exchange? A. From the start; when they started it.

Q. Are you licensed now? A. No, I am not. I was forced out of business. This will be in August, I believe it will be a couple of years.

Q. Two years ago last August? A. No, the coming August; it is about 18 months.

Q. Why was your license refused you? A. Because they happened to come around to my place, and I gave them one of my cards, one of the cards I showed to these gentlemen; that I was a salesman in box straps.

Q. Your card showed you were in another line of business? A. Yes; as a side line.

Q. Which was the side line, the insurance or the straps? A. Well, the straps.

Q. Proceed; did they have you up before the committee? A. Well, no. There is a Mr. Barber there, I think the vice-president; he told me at the time, when I complained, when they have raised the fee from $2.50 to $5.00; I told him I was never called at a meeting, as a member of the society, and at the same time don't know their laws. So he says, "Well," he says, "you brokers, we make laws to suit ourselves," he says, "you have no say whatever. All you have got to do is just to bring in the business. In fact, we can do without the brokers," he says; "you will have to come right along here and bring the business; we can do without them."

Q. Did you ever make application after that for a license? A. No, I have not, not in the last 18 months.

Q. So the sum of your complaint, as against the Exchange, is that they would not give you a license because you were engaged in some other business besides insurance? A. No, it is not alone that. This is the sum of my complaint: The sum of my complaint is this, that the greatest of wrongs is being perpetrated on 10,000 honorable citizens of this great republic; that this here combination has been conniving and conspiring, and engaged professional law-breakers, and law-makers, and law-twisters. I have complained in Albany to different Attorney-Generals, at the time, and could never get satisfaction. It always has been whitewashed.

Q. Did your complaints start after a license was refused, or have you always complained? A. I have always complained. I thought it was one of the greatest of wrongs perpetrated, because they had been raising the rates most shamefully, I thought, at that time.

Mr. HURRELL: Any questions, Mr. Chairman?

Chairman MERRITT: No.

By Judge BRUCE:

Q. Now, did they tell you you could not engage in any other line of business except that of insurance broker? A. Yes, sir. So I told them, "There are insurance brokers that deal in real estate, and that deal in coal. I don't deal in real estate or coal, but I deal in that where I think I could make an honest dollar out of."

Q. Where was your office? A. In the city of New York.

Q. Whereabouts? A. I lived in Brooklyn previous to that, but of late I am living in New York.

Q. Just a moment. Where was your office at the time you were engaged as an insurance broker? A. Well, where I am living now.

Q. In your house? A. Yes, sir.

Q. Did you ever have an office outside of your house? A. No, I have not.

Q. As an insurance broker? A. No.

Q. Did you have an office for the transaction of your business as salesman in dealing in these straps that you refer to? A. Well, no; no.

Q. Then you have never had an office, other than your residence,

for the transaction of your business as an insurance broker? A. That is it; yes.

Q. And where did they come to call upon you, and ask for your card? At your house? A. I generally used to call on them.

Q. Where did they call on you, and ask for your card, you say you gave them? A. That was when I shifted from Brooklyn to New York.

Q. Where did they call upon you? A. At my home.

Q. At your home? A. Yes.

Q. What did they enquire; what did they say they wished to know? A. Well, they wanted to know, several times they wanted to know my entire business; how many policies I carried in the different companies, and the premiums that were paid; and I wasn't going to do it.

Q. That is, you refused to tell them, did you? A. I refused to tell them, on the ground that I was always an independent man, and they had no right to know my business in the Fire Insurance Exchange.

Q. And then did you give them your card, similar to the one you have shown here? A. Well, that card — my good lady, my wife, gave them the card, and they asked me, "Are you doing in this business," and I said, "Yes."

Q. Then, after you said that, what happened? A. What happened? When I came for this here certificate — because without this certificate we can't place any business — I was simply refused.

Q. Had you, up to that time, had a license? A. Why, sure.

Q. And you wanted your license renewed? A. Yes, sir.

Q. Where did you go to get it renewed? A. To the Fire Insurance Exchange.

Q. When you went there to get it renewed, they refused to renew it, on the ground that you were engaged in another business? A. Yes, but they didn't say that.

Q. What did they say? A. Nothing at all; "You cannot get a renewal on your license."

Q. Did they give you any reason? A. No reason whatever.

Q. Then, how do you know it was because you were engaged in another line of business? A. It was an interview I had previous, when they received that card, they asked me whether I was en-

gaged in another business, and I told them I would do anything where I could make an honest dollar out of, and I wouldn't allow any trust to restrict me.

Q. And that is the burden of your complaint, so far as it relates to you personally? A. Yes, sir.

Judge BRUCE: That is all.

Mr. HURRELL: Mr. Lock.

FRANK LOCK, called and sworn as a witness, testified as follows:

Examination by Judge BRUCE:

Q. Where do you reside, Mr. Lock? A. Plainfield, N. J.

Q. What is your business? A. Fire insurance.

Q. How long have you been engaged in that business? A. A little over forty years.

Q. Are you engaged in that business in the State of New Jersey or the State of New York? A. The State of New York.

Q. Are you connected with any organization of fire insurance companies, or agents? A. I am, of fire insurance companies.

Q. In what capacity? A. Manager for the Atlas Assurance Company, of London.

Q. Are you an officer of what is known as The Eastern Union? A. I am.

Q. What office do you hold? A. President.

Q. Will you tell me, first, what the Eastern Union is? A. It is an organization of chief executive insurance officers, company officers.

Q. And how many members has it? A. It has about forty company members, until Wednesday, when an additional sixteen were elected.

Q. And where are its offices? A. At No. 100 William street.

Q. When was it organized? A. To the best of my recollection it was about 20 years ago, but I wasn't a member, and I cannot be sure.

Q. What was the purpose of its organization? A. Mainly the keeping down of the commission cost of the business, and connected with it, a general consultative body, upon matters of general interest.

Q. Over what territory does it operate? A. From Maine to Texas.

Q. Is there any other similar organization operating in the same territory? A. No, sir.

Q. What proportion of stock companies operating in that territory are members of your organization? A. It would only be a matter of guess work. I suppose in that territory there may be 200 stock companies. Our membership has been about forty.

Q. Does your membership represent the largest and most extensive of the stock companies? A. It does.

Q. Now, will you kindly inform the Committee, as specifically as you can, of the operations of your organization; what you have tried to do, and what you have accomplished, and what you are now trying to do? I want to make the question very broad, because we want to get as much information upon the subject as possible. First, discuss it from your own point of view, if you will, Mr. Lock? A. As I understand, in the beginning, the Eastern Union, which is really the official name of the Fire Underwriters' Association, was organized at a time of demoralization in the business.

Q. Might I interrupt you long enough to inquire how it got to be known generally as the Eastern Union? A. As the name suggested, in contra-distinction to the Western Union, which was already covering the essentially Western States.

Q. Now, will you proceed from the point you had reached in discussing it? A. The primary object in the organization was to put some check upon the wild competition in agents' commissions, and, generally, to keep the cost of the business within some kind of bounds. It started out with the cardinal plank of 15 per cent, no more, no less, with the exception of the large cities and certain small areas, which were impossible to bring into any such arrangement. It put that plank into effect some 20 years ago as a Christmas present for its agents, in the face of tremenedous opposition, and has held steadily to it ever since, as the main feature of its existence. As a consultative body, it takes particular cognizance of anything of general interest; such, for instance, as the emergency created by the San Francisco conflagration; what is the proper line of action to take to preserve solvency, and to recover from such a blow. Supposing that in a State there is no valued policy law,

there should be an intention of putting in a valued policy law, it would be a proper subject of consultation amongst executive officers; and so in any broad question that comes up, but without the exercise of any legislative functions. The Eastern Union gives attention to such things; it does not, apart from the 15 per cent commission rule, exercise any direct legislative functions; purely advisory.

Q. Now, do all the members of your association adhere to the 15 per cent commission rule? A. They all adhere to it, but I would not like to say that there are not here and there scattering instances where the obligation is lightly regarded in some respects, but as a general rule it is adhered to, and the exceptions are exceedingly rare.

Q. Do you pay 15 per cent on business, whether preferred or not preferred? A. Yes, sir.

Q. You have no extra bidding up then for commissions on the so-called preferred business? A. We have not in the past. I am sorry that the intense pressure of outside competition is bringing about a change in that respect.

Q. Well, addressing ourselves first to this question of commissions, you deem it would be for the best interests of the insurer and the insured if the statute were enacted regulating commissions, say at 15 per cent, on all lines of business, binding upon all the companies? A. That is a broad question, and I would answer that, Judge, in my individual capacity, and not as president of the union.

Q. Do so. A. Personally I think that the business of insurance is not one which should, in its active management, be a subject of statutory regulation. As regards the essence of the question, I think that an exception in the case of the small preferred business, so-called — I object to the term — is allowable, as otherwise a substantial hardship is worked in connection with small insurers, artisans and the like, who have to be hunted for. The compensation in relation to the time involved is exceedingly small, and I think that there is a natural condition which makes it justifiable that an excess commission should be paid for the small business, just as there is in the industrial life business, as otherwise the family, the community in a large degree, will go without that protection. Otherwise my feeling is that all classes should be treated alike.

By Chairman MERRITT:

Q. What is your point of view with regard to this class of business, as to its being a public necessity? A. Fire insurance?

Q. Well, speaking of those classes which you referred to, the industrial life insurance. Is it of interest to the general insuring public that this class of insurance should be written or not? A. I think it would be a substantial hardship to put any difficulty in the way of the artisan or workman, small tradesman.

Q. Well, but you have already said that that business has to be gotten; it has to be sought? A. Yes.

Q. Of what interest is it to the insured of, for instance, in the mercantile business, that these people should be insured at all? A. The broader the basis of the contribution to the general insurance fund, the more it helps to keep down the general ratio of expense.

Q. That is, you mean to say that, by reason of the existence of what is known as preferred classes, the general level of rates is lower? A. No, sir, I do not mean that.

Q. Or safer? A. I mean that insurance is, in its essential principle, one which involves the contribution from the widest possible base, and from every possible class, for the two reasons; one of building up the necessary funds for time of emergency, and the other for keeping the cost of transacting the business down to where it ought to be. Office rents, salaries, maps, everything of that kind. Now, if we leave out a very important class of business, we leave out of account so much that helps to support the general situation.

Q. Then the writing of this class of insurance does afford greater security to all the classes? A. It does, sir.

Q. And that is why you think it ought to be got, even if it has to be sought? A. I simply put it on that ground, that every insurable interest is entitled to be brought in, helps to support the business as a whole, and being one of the contribution of the money for the benefit of the few, the more there are to make that foundation, the more stable the conditions. I do not know whether I make myself clear.

By Judge BRUCE:

Q. Well, in the last analysis, insurance is, in fact, in the nature of a tax, isn't it, levied upon the many for the unfortunate who sus-

tain losses? A. I would not say in the nature of. I would say analogous to a tax.

Q. Analogous, well I accept the term as a better one than I have used? A. I think that is so.

Q. And, secondly, the more you get in who are going to contribute to the losses of the unfortunate, the less will that burden be? A. I think that is so.

Q. Well, now, it has another peculiar feature, has it not, fire insurance, that is one of very few classes of business that need not be sought? A. As a matter of neecssity, no. As a matter of business expediency, it has to be.

Q. That is for your company to get its share of it, there is necessarily competition and seeking of business, but, as a rule, the man who owns property is looking for insurance and does not need to have an agent look for him? A. Well, I would want to qualify that, Judge, by this: The man of large business, who is looking for insurance, wants an adviser. It is a highly technical business, and the conditions that are under his own nose in his own business, as to their bearing upon the premium rate and the loss cost, he cannot appreciate what he sees. He wants somebody who is somewhat expert to be his adviser, either agent or broker. Now, I am answering from the other side, from the side of the public, but that is my conviction.

Q. In life insurance, the insurer in most cases has to look out and hunt up the assured. It is a business that must, as the Chairman has said, be sought and looked for, and in that way is differentiated, in a very large measure, from fire insurance, is it not? A. Well, I do not see that distinction. I think every right-minded man would want to name some provision, and should seek it; should seek it just as well as in life insurance.

Q. Well, that probably ought to be so, but in practice isn't it a fact that you must drum for life insurance? The man must be persuaded to do what you say he ought to do, whereas in fire insurance, every well-advised and well-grounded business man seeks out indemnity and protection against prospective losses? A. I do not dispute that, but I have never been in the life business and therefore I cannot pursue the matter from that standpoint.

Q. One of the lines which has impressed the Committee here is

the fact that it has appeared here in evidence that approximately 40 per cent of the gross premiums paid in are necessary for the purpose of bearing the cost of administration. That seems to us to be a very extraordinary amount, and I have noted that in some of the editorials in the press of the city that has been commented on, very — I might use the word, severely. Now, Mr. Lock, will you tell us what are your views with reference to the question of 40 per cent of gross premiums being necessary to bear the cost of administration such as this? A. Well, first of all, we will call it the right figure, 38 1-2 per cent.

Q. Well, I accept your figure. A. If we were building this business anew, in the light of our experience, we could unquestionably organize it so that a heavy percentage of that cost could be saved. Whether, as a practical proposition, there is any way in which it can be forced back, I am not prepared to say, and I do not know what the way is, and if you, or anyone else, can show the companies, they will be only too glad to welcome it. Our attitude is one of giving way, and giving way under the steady pressure of competition all the time, fighting back, from ditch to ditch. Now, there is one consideration that is rather remarkable in its way, which is that the ratio of expense which you have indicated, or I have indicated, is about the general ratio of expense the world over.

Q. In the fire insurance business? A. In the fire insurance business, although the conditions of doing business in different parts of the world vary very much. In other words, in Great Britain the cost of doing business ranges about midway between 30 and 40 per cent; the same on the continent of Europe. Therefore, there would seem to be some underlying economic condition which determines that factor. Here in this country we have a system which is essentially different from the British system; that is, the American agency system. It has its good points and it has its bad points, but it does not alter the fact that the ratio of expense is about the same in both countries.

Q. What is the British system? A. The British system is to have at the largest central points branch offices, with manager, rented office, local board of directors, staff of clerks, and he has an area of perhaps so many counties. In that area the company has a corps of agents who, for fire insurance, will write one company only.

They are virtually solicitors for business. They accept the business and bind it for a fortnight. It is sent in to the local home office. There it is carefully scanned as to all the surroundings, physical, mercantile, everything of that kind, and then the local manager definitely decides to accept or reject. If accepted the policy is written at that office, and is sent to the agent to deliver, and being put out, it cannot be canceled. Therefore there is extreme care exercised in putting out that policy, because when it has gone, both assured and the company are tied to it until its expiration, unless the conditions changed by the introduction of new hazard, or by transfer to new locality, or something of that kind.

Q. Are these solicitors paid a salary or commission? A. Commission.

Q. And what are the commissions paid there? A. Well, it is 25 years ago since I lived in England, and conditions may have changed, but 15 per cent was the common rate. I do not know that it has changed.

Q. Well, will you analyze for us, Mr. Lock, this 38 1-2 per cent of expense, if you can? A. As near as can be, 50 per cent of it goes in compensation to agent or broker. According to the Insurance Department records, it would appear that about 21 1-2 per cent goes for commissions, but that is not a fair representation. For instance, some companies will appoint general agents for two or three States, say Louisiana and Texas. Those agents will appoint all their corps of sub-agents. The company will compensate by paying this general agent 25, 27 1-2 or 30 per cent, in lieu of rent and salaries, traveling expenses, and everything of that kind. All this goes in to swell the aggregate of the commissions, when really a proportion of it is management expenses. Therefore, it is safe to say that of 38 1-2 per cent, about 50 per cent goes for commission and brokerage. About 8 per cent goes for salaries, including executive officers, or traveling field men, the office staff of every sort and kind, inspectors, examiners, loss adjusters, takes about 8 per cent. Let me see: That makes about 30 per cent. Well, then, it leaves about 8 1-2 per cent for taxes, stationery, postage, telegrams, every kind of sundry that is not included in anything else. I do not know whether that is near enough.

By Chairman MERRITT:

Q. I suppose that the gross amount of business divided up among a great many companies costs, in the administration, through salaries, etc., a good deal more than it would if the business were consolidated into two or three large insurance concerns, would it not? A. Unquestionably, Mr. Chairman. There is another great difference between Great Britain and this country. Business in Great Britain is concentrated in the great bulk in the hands of about 25 companies, and, as a matter of fact, the business is much more economically administered there than here, for the reason that an expense ratio of 38 per cent there upon a premium rate that is about one-third of what our premium rate is, necessarily involves that the expense of taking business is therefore less. To put it another way: The cost of writing $1,000 of insurance in Great Britain is about one-third of the expense of writing $1,000 of business in the United States, but the ratio is about the same.

Q. How has this consolidation of Great Britain into the hands of 25 companies come about? A. I think, Mr. Chairman, it has come about by the absence of State supervision. I am a believer in State supervision here, but I believe that is the main secret of the consolidation of the business into few companies there.

By Judge BRUCE:

Q. How has that operated in that respect?

By Chairman MERRITT:

Q. By purchase? A. It has been mainly by slow growth of the early years of the centuries, and commencing about 30 years ago by many series of consolidations; absorptions.

By Chairman MERRITT:

Q. Is that taking place to any extent at all in this country? A. It has taken place, but mainly here in this country when a company is getting ready to lay down and die, the easiest way of being buried is to be put over into the office of another company. But in Great Britain it has been, as a matter of policy, for

the interest of all concerned, to consolidate small sound concerns into larger sound concerns; not as a matter of fate.

Q. Is there anything in our statutes that makes that difficult? A. No, sir.

By Judge BRUCE:

Q. Then why would you say that State supervision had operated to continue so many companies in the field? A. The reason that in Great Britain every man has to look after himself, and no company shows a certificate of endorsement from the government. Here one policy looks alike to another policy, and with the certificate of the government behind it, the public are not going to discriminate, and in Great Britain they have to look out for themselves. There is nobody to look out for them.

By Chairman MERRITT:

Q. You mean as to the solvency, for instance, of the company? A. And as to the character of the treatment they will get. Secondly, the assured are very particular, and the population itself being much more settled and stable as a rule, they will only insure where their grandfathers insured, and their fathers, and the insurance company becomes like the doctor, the lawyer, or the banker, as the friend of the assured. The relations are most happy and harmonious.

Now, that system would not work here, and I believe in State supervision here, though not in all the departments of State supervision, and though I believe in it, I am telling you the simple fact why, in my judgment, there are comparatively few companies doing business there, and why there has been no successful insurance company organized in Great Britain, of any magnitude, fire insurance, since 1863, I think.

Q. They simply cannot get the business? A. They cannot get it.

Q. Do you believe that the assured in Great Britain have really a better knowledge of the character of fire insurance and the stability of the various companies with whom they deal, or is it more than anything else this particular relation which is almost personal?

A. That relation is a case of cause and effect, that business being concentrated in the hands of a few old companies. They handle things to the satisfaction of the public, and the public are not attracted by the new concerns that start up; they simply will not give them patronage.

Q. There seems to be in the British mind a deep-seated objection to change of any sort? A. Yes, that is so, sir.

Q. I have noticed that? A. And I say that I believe in State supervision, because the whole temperament of the country is different.

Q. By State supervision you mean such supervision as now exists? A. Yes.

Q. You don't mean anything further? A. No, sir, I do not. Well, I say that I can see points where they could be changed, some that exist now might be changed for betterment and some might be brought in, but I am speaking now of the principle. I think there is a strong undercurrent of mutuality in the fire insurance business. We stock companies simply put up a certain amount of capital, and then we have to proceed to work upon mutual lines, but the element of the population is largely different. You take a British directory of twenty years ago and run down the list of names, and walk down the streets and look at the signs overhead, the same signs to-day that were there twenty years ago, scarcely changed, except deaths. You take a New York directory of twenty years ago and compare it with to-day; people that were in that directory are out in Chicago or San Francisco or down in New Mexico, scattered all over, and new people have come in from all the countries of the globe. Those conditions mean fire loss, those shifting conditions. Fire loss means higher premiums. And until this country reaches approximately the steady conditions of the old countries you cannot expect the rate of premiums of the old countries.

Q. I asked you if there is anything in our statutes which made it difficult for combination of interests. You said no. Is there anything that could be done in the way of statutory enactment that would make it easier than it is now to bind these interests or enforce it, that you can think of? A. Perhaps I misunderstood you. I thought you meant the amalgamation of companies, of companies

to make larger companies, but if it is association of effort that you mean ——

Q. I mean both. I have this in mind, that in studying these questions it is evident that there is a great economy in consolidation along any line? A. Yes, sir.

Q. As long as the public is serveed well and at a minimum cost in any line of corporate activity, it does not matter whether it is a great combination or a small one; the bigger the combination under favorable conditions the better for the people as a whole, to my opinion. We had occasion last year to examine the situation in this State as carefully as we could with regard to the telephone and telegraph business, and I was on that committee, and in its report the committee stated as its opinion that those activities, speaking of them broadly in that way, were of a nature that they should either be controlled by large aggregations of capital under one head or by the State, combined with regulation. That was in the report, I believe. It has occurred to me that it might be possible to outline a policy which would result — we don't care what prevails among the companies in the combination, or concentration of the business, in smaller units, numerically, and greater ones from a business standpoint, which would result in economies which would be reflected in premiums, and that it would help towards uniformity, a practical recognition of common standards, and ultimately in a condition where the concentration might be theoretically complete, and the relation between the State and companies be along the same lines as in public service companies. We have not got to that yet; but that was the thought I had in mind, if I have expressed it so you understand? A. Yes.

Q. I would like to get what your idea about that is? A. The difficulty, to my mind, is a practical one. It has been asked many times, I think, in this Committee, if the fire insurance business is a peculiar or an unique business. It is, unquestionably. You cannot find a parallel for it in any other line of business. Take the ones you have just mentioned, telephones and telegraphs; they have invested an enormous capital in money actually outlayed for buildings and for wires, everything of that kind; the money is there. Now, in fire insurance, you are dealing with shy capital in a liquid state; it has not money invested in anything to speak of, and the

moment you take away the temptation for a reasonable reward, and the moment you put about that capital fences so that it ceases to be readily liquid, that capital is going to be shy; it is going to take alarm, and it needn't be there. That is, it is not tied down to the ground like a railroad or a telephone or a cotton mill or steel works. The Home Insurance Company could liquidate tomorrow, pay back handsome dividends to its stockholders, and put its money into telephones and steel works and so forth, and everybody would be just as well off. Now, then, you have here, or in Buffalo, or Rochester, a condition of things where your community must have protection against the fire hazard, or you are paralyzed. If you are going to make conditions by State control that will cause capital to take alarm it will simply liquidate and go into other shapes, and dissipate.

Q. It is true, then, that a large part of the value of what you term in fire insurance business the plant of a company is very intangible? A. It is very intangible.

Q. It has real value, but in comparison with any of those concerns that you have mentioned, a large part of the value, you might call it volatile? A. It is in existence.

Q. It is intangible, and yet it is real for carrying on the business? A. You can discern, Mr. Chairman, that the conditions in your large cities have no relation whatever to the conditions in the balance of your State, and you either have to consider or work from the standpoint of the country district or from the standpoint of the great city. You cannot carry it both sides in the same way. Now, you have had mutuals, dwelling house, factory mutuals, inter-insurers, come here, and talk to you. They go around and they skim a little here and a little there of the choicest and freed from the conflagration hazard, and from the general run of business. They demonstrate we can do this, and we can do that, and we can do the other, but they do not carry the insurance business. Your problem is right here, that you might have a condition of things tonight that would simply paralyze not only the State of New York, but would paralyze the nation, and the only thing that you have that is under that is this liquid fire insurance capital, and it is the only thing you can have. The State cannot do that, because if they relied on the State and New York burned down, what sort of

a tax rate are you going to have on the State? And if the State were to undertake to do that what sort of credit would the State have when the bondholders would know that there was that liability? The State cannot do it. The only thing you have is your liquid capital, and Mr. Waters' statement, to the effect that if it were burned out there would not be 25 cents paid, is all nonsense. There are companies that would not pay 25 cents, but as a broad proposition the greater part of it would be paid in some way or another of the extent of the fire that he named, mind you. There could be a fire in New York that probably would result in not more than 25 cents being paid. Now, if you are going to legislate to protect New York, as your most vulnerable point, you have to consider that the companies are not going to pledge their all, their existence, on New York city, and be deprived of the opportunity of helping spread the burden outside over the State. The two things do not run parallel, but you have to bring them together in any thought of legislation, so that there shall be found a common ground between the country and the city. You have to bear in mind that you are not dealing with conditions like in your public service corporations, gas, your railroads, or telephones or telegraph, because their money is there; our money is not, and if the conditions do not suit us our money will go into other channels, and if it goes into other channels, where are you going to replace it? The insurance business is not an attractive business to capitalists. You might think the contrary because there is a lot of promotion going on for little companies all over the country, but that promotion is done by seeking out the little grocery and the candle-stick maker to a large extent, and holding up the glittering figures of the Glens Falls and the Etna and so forth, and promising them that is what they are in for. You cannot go down to Wall street and get capital for fire insurance companies.

Q. That is true, that none of the great fortunes we speak of generally ever came from the fire insurance business? A. They have not, sir. It is a difficult, dangerous, complicated business. Its history is strewn by hundreds of wrecks, and there is absolutely nothing to be gathered by bringing into this Committee the experience of a few who, through many long years, by good luck and perhaps a little more brains in management, have been able to

build up something satisfactory, and argue anything from it as to the profits of the business. You want in here those who have dropped by the way. Let them tell you the story. However, I am talking too much.

By Judge BRUCE:

Q. To go back to the Chairman's question, for consolidation to be desirable, what could be done with statutory enactments to encourage or make it more easy than it is now? A. That is a bad question to ask an Englishman. I would say, let us alone, let us fight it out in our own way. I know perfectly well that the best element in the fire insurance business means to do the fair and square thing, and if you let us alone, why, we will work it out the best way we can.

Q. That would mean that the big ones would eat up the little ones, would it? A. Judge, to my knowledge the big companies have never made a warfare upon the little ones.

Q. I do not mean to make a warfare, but wouldn't they absorb the little ones? A. In economic conditions I think it would go that way.

Q. Am I correct in this, Mr. Lock, if the ratio of expense to gross premiums in Great Britain is the same as it is in America, practically, and if the premium in Great Britain is one-third what it is in America, then the cost of doing the same volume of business is about one-third in Great Britain of what it is in America? A. I think your arithmetic is correct.

By Chairman MERRITT:

Q. And that has all been done without any governmental supervision whatever? A. I would go a little further, Mr. Chairman, and say I do not think it would have been done with governmental supervision.

By Judge BRUCE:

Q. Now, coming back to my original question, taking up, first, the question of commissions as items of expense, what would be your judgment, based on your very wide experience, as to whether

or not commissions should be absolutely regulated by statute, and rebating forbidden? A. Judge, I see less objection to that form of legislation than almost any of the others that have been spoken of, but I do not think it would cure the evil.

Q. And why not? A. Because I think that it would take other forms. Men would be salaried to do what they are now paid a commission to do, and things of that kind.

Q. Do you believe in an anti-rebating law? A. Yes, as a principle, but I do not think there is much in it. I believe in it in this way: We try the best we know how that the result of our assessments shall be equality between man and man, and I would not very much like it if a man could go down to the ticket office of the railroad and buy a ticket to Chicago and get a rebate off, and I go and buy a ticket to Chicago and I could not. I think, for the parity of service, there should be the same price; but there is underlying all this a mutual principle, although we are stock companies, and we endeavor to arrive at it, that our customers shall have the square deal as far as we know how to give it, and if rebate is allowed the rebate generally goes to the big man, and the little man scarcely ever gets it, but the little man has to put his amount in the pot.

Q. Do you believe in the State's license law for agents? A. For agents?

Q. Yes. A. They are licensed now, sir.

Q. I mean a State license law for agents and brokers; take the brokers? A. Yes, I think it would be a very good thing.

Q. The broker is now licensed by the local Exchanges? A. I beg your pardon, he is certificated. There is a difference between a license and a certificate; the Exchange has no right to license.

Q. Take the word certificated; do you think the power to certificate should be taken from the Exchange and located with the Department of Insurance? A. If any change is made at all it should be the dual thing.

Q. That he should hold one from both the Exchange and also one from the department? A. Yes; that is, if there is the certification by the State, I don't think it should be taken away from the Exchange.

Q. Why not? A. Well, the Exchange investigates the charac-

ter of those who hold the certificate more closely, I think, than the State could very well do, and it makes an endeavor to see that no one who is morally unfit shall hold a certificate, because it is a place of great temptation, and it is a very easy thing for a broker going down through the East Side districts, for instance, to collect the premiums from those people and not turn them in; the money is lost.

By Chairman MERRITT:

Q. This matter of rebates we have heard a good deal about, and I suppose it is natural for everybody to feel hurt if some other person gets a better trade for anything than they get. Just what the effect on the premium rate is I cannot get in my head, one way or the other, with no legal effects, it could affect the man in the business — but all these anti-rebating laws are more an expression of opinion, are sort of an academic proposition, than anything else, because they do give rebates on life insurance and everything else, or at least it is so stated, and many people can be found who will tell you that they have been offered rebates, and some of them have accepted it, but that is a little harder to find out. Personally I have not got much use for a statute that is only a declaration of opinion; I think it is usually invoked to the damage of somebody and not to the good of anybody, and if, as a matter of actual practice, a law forbidding rebates would not be operative, I do not see any use of putting it on the statute books myself? A. I do not attach a great practical importance to it.

Q. And I wondered whether you thought practically it would operate any better than the agreement which brokers and agents enter into and sign with the companies, which, if they violate, they violate an honorable obligation, or whether it would be any more enforceable, or enforced, if there were a legal punishment for the violation of the provision in the statute. Do you think it would make any difference? A. Well, Mr. Chairman, as a matter of principle, I am opposed to statutes which are not likely to be enforced; I think they do more harm than good, but I do not think it amounts to much practical importance one way or the other, but I do think it is of practical importance that we should always endeavor to see that those who contribute to the general insurance

fund should do so upon an even basis, and that is what underlies all these questions of rebates, or of co-insurance clause more particularly, and the fundamentals of our schedule ratings. We could get the amount of money in other ways, but it would not be obtained by equitable assessment.

By Judge Bruce:

Q. Mr. Lock, how are rates fixed in Great Britain? A. As regards the great classes, the main mercantile classes and manufacturing classes, they are fixed by tariff agreement of the companies, that is, of the leading companies. There are non-tariff companies. As regards the balance of the small business, it is fixed by custom from time immemorial.

Q. How many of the 40 companies operating in Great Britain, doing the great mass of the business, are in the organizations which fix rates? A. Practically all of the really leading companies are in the organization; I do not know that there is any exception.

Q. Is there, then, any substantial competition on rates, or do the non-union companies follow the union companies on rates? A. The non-tariff companies — I am not speaking now of my actual knowledge; you must remember I have been absent 25 years — the non-tariff companies base their knowledge of things from what they learn on the tariff companies' schedules; those are confidential. The general history has been there would come a series of promotions, with the idea that by driving for sprinklered business, or cotton mills, or for drygoods risks, there was millions in it. They do not go down and get a good foothold, and amount to something. Then they either come into the tariff, or they are absorbed into one of the bigger companies, and a period of promotion is over for some years. But, fundamentally, they get their knowledge and information, as they all do in this country, from the stock companies, the leading companies.

Q. I take it your company is a member of the New York Fire Insurance Exchange? A. It is, sir.

Q. And I take it that you believe in a combination of the companies for the purpose of making the rates? A. I think it is the only way.

Q. Will you just give us your views upon that question, and

also on the question whether, if the State permits that, it should not reserve to itself the right of review or regulation? A. I think that with the complex condition of commercial life in the twentieth century, no one company could make rates that would be in any sense satisfactory, or equitable or workable. If any one company sought to do it, it would have to specialize, as the dwelling-house mutuals, for instance. Therefore, combination is absolutely essential in the interest of the public. I think, perhaps, I forgot part of your question, as to State legislation?

Q. Yes, whether, if the State permits combination for the purpose of fixing rates, it does not follow as a necessity, it should reserve to itself the right of review? A. My personal opinion upon that is that the companies will live under any conditions you choose to make, so far as they can practically get the money out of the public to carry the hazards. If you ever make conditions that they can't do that, they will turn to other things, with a great deal of regret, because they have built up valuable plants, extending over a great many years. And, therefore, if a State chooses to interfere in the making or regulating of rates, the attitude of the better class of companies would be to try to give absolute observance to the law, and if, with absolute observance, we find it is not livable, we will have to say so. Personally, I do not believe in interfering with what the State proposes to do in the way of legislation, but to endeavor to meet conditions as they come up.

Now, there is a wide range between the ultra-State regulation of Texas and what has been suggested to this Committee, a sort of court of review, if I understand it. It would be the opposite extreme, if there is to be any regulation. It looks as though what they are doing in Texas will make conditions impossible. They have spent a quarter of a million of dollars to practically discard it. You have to pay for that. They won't pay it in Texas. We will have to draw that from all the rest of the country.

Chairman MERRITT: It will be spread, as part of the expense?

The WITNESS: Nothing else to do with it; they won't let us get it down there.

Q. That goes into the 38 1-2 per cent some where? A. Now, then, a State board of review sounds all right; personally, I have no objection. I simply do not think it would accomplish anything. If I am talking too much, I wish you would check me.

Q. No, no. A. I want you gentlemen to consider the entering wedge of State rate-making, and contemplate 48 States, 45 States in the Union, each with a fence all around it of State rate-making. What is the situation? San Francisco burns. California, we will assume, had a State rate-making law at that time; gives fair notice to all the country, "We are going to live on our own fat." San Francisco burns; and the insurance companies have to pay $200,000,000. Now, we say to the State of California, "We want to put up our rates in your State to recoup us that." They say, "Not much, it would bankrupt the State." Well, now, we go out to the other States, and we say, "We can't make ourselves solvent without an advance in rates, and we come to you," in Wisconsin. "Oh, no," says Mr. Tapping, "what have we got to do with San Francisco; we are not going to allow any advance in premiums because there has been a loss in San Francisco." And it will be met in every State on that basis; each will be shut into itself. You might as well carry it further down, and have every township and every village and every street say, "We are sufficient unto ourselves;" and you have abolished insurance. The fundamental thing is you should allow the widest scope to the insurance companies, that when a calamity hits here or there, or the other place, we can distribute that calamity, and can put ourselves back in a solvent condition to meet the next blow. Now, the wealth of the country has grown a great deal since San Francisco burned, but the reserves of the companies to meet all that has only advanced to about $10,000,000, as compared with what it was in the beginning of 1906. In other words, we haven't got back there.

Now, the point I had in mind was this: You have an entering wedge, Kansas, Texas and Louisiana; and other States considering it. Let that legislation extend, and you destroy the function of insurance, as being the foundation of our national credit. It is obvious that if New Orleans burns, Texas is going to say, "We have nothing to do with New Orleans; we won't put up our rates for them." You heard Mr. Tapping say that Wisconsin wouldn't admit any advance just because Baltimore burned. The companies had to get the money to replace Baltimore. Where did they get it? They got it from you, gentlemen. They went to Potsdam, and got some from your worthy Chairman; but they didn't get it in Wis-

consin, because Wisconsin said, we are so organized we will hold you off.

Now, that is the logical conclusion of State rate-making.

Q. Which is the greater evil, from your point of view, anti-compact or State regulation? A. Oh, State regulation, undoubtedly.

Q. Well, does not State regulation follow, from a theoretical point of view, at least, as an absolute right, if you permit combination? A. I find it a little difficult, Judge, to divorce myself from my early training, which is, that absolute freedom of action is the best for the community in the long run.

By Chairman MERRITT:

Q. You said a while ago with regard to the distribution of the contributions to a loss, and the inclusion of various classes, that the stability of the business was dependent upon that; and also that the bulk of the risk was carried in the straight insurance business as a whole, by the stock companies? A. Yes, sir.

Q. And then you referred to the individual insurers and inter-insurance plans of one sort or another, and the mutuals, as means of taking specially good insurance out of the general body that contributes to the contributions? A. Yes, sir.

Q. Looking at it from that standpoint, would you say that the State ought to favor the introduction of those plans of insurance; favor their organization and business in this State; or, regarding it from the standpoint which you seem to have, take such action, if any is taken at all, as would have a tendency to put all those risks into the great body of insurance? A. Mr. Chairman, as far as I am concerned, I would say, let anybody come that wants to come, provided they are put on an equal footing. But things are not always on an equal footing. What I said, to which you are making reference, was intended to have this force: That the dwelling mutuals, factory mutuals, and inter-insurers, who have spoken here cannot be taken as exemplifying what can be done for the business as a whole. And the more they discriminate and select, the higher we should have to put the rates on what is left; on unsprinklered business, congested areas, and less desirable business, they will not insure. Now, we are doing an insurance business. We get at the public and say, if you are not a scheming rascal, if you are doing

an honest business, we are prepared to insure you. Now, they go and they pick this, and they won't take that and the other, and the more they discriminate, the more the burden is left on the less desirable business, so called.

Q. What I was getting at was this, if I can make myself clear. I am not at all sure I can. We have discussed this matter from the standpoint of insurance being a necessity, and from the standpoint that it is almost an obligation. If that is true, these people who limit themselves to those particular forms of risks, where the hazard is the smallest, are, in effect, avoiding something of the obligation they owe as good citizens. Now, as long as they are solvent, possibly that isn't important from the standpoint of the individual insurer, but they discriminate. Now, can we measure in any way the amount of discrimination which they exercise by the imposing of an obligation? A. I think, Mr. Chairman, the attitude of the companies of the class which I represent would be that we would not lift a finger to prevent the entrance of any kind of mutuals, whether factory or dwelling, provided they are put upon the same general conditions that we are, as to taxation and other things.

Q. That is all right from your standpoint, but—— A. I was coming to that. But beyond that it becomes a matter of State policy, which belongs to you, gentlemen, and not to us. And while it is true that they do not assume the general burden in the conflagration areas, or anything of the sort, it is further true that the dwelling mutuals and the inter-insurers, as they will tell you, they use the machinery of the stock companies as the basis of their rates. They avoid that expense. We have to carry that. Still, there would be no opposition from our side, and it becomes purely a matter of State policy. And if you think it is well to admit them, you will find there is absolutely no opposition from our side.

Since they have been mentioned, that class of company, I desire to add this: It is a wrong impression that the stock companies are not virtually meeting the same ground as the factory mutuals. Our factory insurance association is carrying $350,000,000 risks, and at a cost which enables us to successfully compete with the mutuals. There is hardly a dollar of that $350,000,000 that the mutuals would not be glad to accept. It is equipped upon the

standards, and maintained by the inspections they are following, and are fully equal to the factory mutuals. And it is got from them in fair and square competition. We are not afraid of their coming, because we get risks from them all the time, that we take from their books, and they take risks off our books. We have individual risks we write down as low as eight cents per annum, and we give a straight policy without any liability to assessment. We are not afraid of that competition at all.

Q. I understand, from your statement, what you mean. The idea that came to me was whether the State should adopt a policy to measure it in some way, in the treatment of the companies who are insurance units; limit this in such a way, as some of them do, thereby limiting their chance of loss materially — whether the State in its treatment of the subject broadly should recognize the fact, if it be a fact, that the great burden of insurance is borne by a certain line of company, and give them consideration of their doing a greater public service? A. Exactly.

Q. Just how you would get at the details is an entirely different matter? A. I think that is an exceedingly good point, and a very fair point, but I do not believe the stock companies would be able to make any practical suggestions towards that alone. We will just have to throw ourselves upon the good business judgment of you, gentlemen of the Committee, and take what you hand out to us eventually from the Legislature.

Now, if I am not interrupting, my memory goes back to the question of Judge Bruce, as to the 38 1-2 per cent being exclusive ——

By Judge BRUCE:

Q. The 38 1-2 per cent. A. 38 1-2. I don't see any chance under the present American agency system, I don't see any chance that as a ratio that will be reduced. I will tell you why. The average rate, due to conditions of construction, etc., borrowing the occurrence of any exceptional conflagration, the average rate will go down and down, and that will be brought about by the expenses that the stock companies will put into the business, by their rating machinery. Now, as the rate of premium goes down, the higher becomes the ratio of that expenditure. In other words, it becomes

more and more a preventive service, and I can conceive the time when we may have to spend fifty per cent of the premium, and the value that would be handed out to the community would be worth every red cent of it, by the conditions that are brought about. But that should necessarily be accompanied by a large reduction in the rate of burning to the property value. Do I make myself clear upon that? So I hope you gentlemen will not lay too much emphasis upon the ratio of expense to the premium, provided we show results; provided we show a reduction in the rate of burning, and give to the community good value for the money. That is the only way to keep our capital covered in the centers of large cities.

Q. Going back a moment, Mr. Lock, to the question of our insurance of factories similar to those carried by the factory mutuals? A. Yes, sir.

Q. Isn't your rate the result of the very severe competition of the factory mutuals? Haven't you had to meet their rate? A. The factory mutuals blazed away at the time when stock companies thought their only function was to sit in chairs and fix flat rates of commission upon a few classes. That was the whole sense of fire underwriting. You take 40 years ago, and a drygoods merchant on Broadway failed, his friends got together and they would say, "Let's form a fire insurance company for him and make him president." Now, that is not really idle.

By Chairman MERRITT:

Q. It has been a last resource? A. It was the manner of formation of scores and scores of fire insurance companies, and all the sense of it was the rate upon this class was so much, and upon that class was so much, good, bad or indifferent, and that became intolerable for the highly-organized mills, and they would say if that is the best you can do for us, we can do for ourselves, and they blazed away, and the whole trend of the fire insurance business, as understood in the best elements of management for the last quarter of a century has been that we have got to serve the public in this, and in what the factory mutuals were doing it was very freely conceded that they got the right line on things, but it is only applicable to certain special classes of risks. You cannot make it general, and therefore the stock companies organized and they furnished to

the public the same character of service, and almost at their own rate of cost, and it is highly satisfactory to the same class of mill owners that are in the association of mill mutuals, because there are vast numbers of them that prefer to have a straight policy without any liability, even if the liability is remote, and, like the factory mutuals, they have only got to deal with one person, one manager, and one inspector, and everything of that kind, one adjuster, in the case of a loss. Therefore, we are able to furnish this indemnity. Now, there is one thing you have to remember with regard to that class of insurance. It looks very pretty that it only costs about 8 or 10 cents, but you must remember that the initial cost is very heavy to equip the mills up to the standard, and there is interest to be earned upon that money.

By Judge BRUCE:

Q. You mean by the introduction of sprinklers? A. If I am talking too much, I hope you will check me, but I saw that one of your witnesses said that the stock companies did not encourage the putting in of sprinklers, which turned my memory to a very good friend of mine who has got an immense plant, and, upon my express advice and counsel, they incurred an expenditure of $180,000 for sprinklers alone to equip their plant. Besides that, there is a large additional expense involved in reconstruction of walls, elevators, various things of that sort; all put in to secure this rate. The interest upon all that amounts to something. Now, the stock companies are doing just as much in their way as they can to extend the sprinklers, as are the mutuals.

Q. Now, if we were to admit in this State the miscellaneous mutuals which operate in a special field, to work in dwellings, would not the stock companies be required of necessity to meet their rate on dwellings? A. I do not think they would have to go very far to meet it.

Q. The great complaint here is that we have heard before this Committee, that dwellings throughout the State, not only in cities, but throughout the State generally, which is considered preferred business, are bearing more than their proportionate share of the fire tax? A. I think there is an element of truth in that, Judge Bruce, but not so much as is supposed when you consider retail business,

and that the — well, I would just base it on that one fact alone, the cost of getting it, the cost of carrying it; it is a retail thing. Now, I believe that in certain sections the rates upon dwellings may be higher than they need be. I believe that in other sections they are decidedly lower than they should be. There are sections where we won't touch them at any obtainable price. There are other sections where we are only too glad to get all we can at the prices that are current.

Q. You are speaking of New York State? A. I am speaking, to a certain extent, of New York State. Why, certainly, yes, I am. But if you take New York city, what is there to complain of. You take one of your brownstone dwellings, if it burned down once in a thousand years, the companies have not made anything. That is, if one of them burns out of a thousand, the companies have not made anything. Is that excessive?

Q. I ought to be frank and say that the complaint has not come, in a very large measure, from the owners of dwellings in cities, but more largely from the owners of frame dwellings in the rural district? A. Yes. Well, now, Mr. Bruce, over the greater part of the State my company will not write those, because the rate is not high enough to compensate for the hazard. We do not take any unprotected dwellings.

Q. You mean farm dwellings? A. We do not write farms, because we cannot get a satisfactory rate. We do not write dwellings generally. We will write them in villages and towns where there is protection. That is the best answer I know. We want money, and if there is a lot of money in dwellings at those rates we want to get them, but our experience is that they do not pay, and we do not write them for that reason, that is all.

By Chairman Merritt:

Q. I suppose that the insurance business is like every other business, for the last 25 years it has gone into an analysis of things to an extent that never was thought of in earlier years; analytical bookkeeping in business is a new thing, comparatively? A. It certainly is, Mr. Chairman.

Q. And we have all acted along the same line, and upon the method employed, by the same general employes — find out? A.

Well, I do not want to make any of our own volition. We get plenty of suggestions from the State authorities, and the requirements of the various States' authorities, involving a most highly complicated system of things.

Q. Speaking of this large investment by a particular concern in fire protection—— A. Yes.

Q. That, in a way, measures not simply the risk, the value of it, but the importance of not having the business interfered with? A. That was the main consideration. That is the great consideration.

By Assemblyman FOLEY:

Q. Mr. Lock, what dividend did your company pay last year. I will withdraw that. Is there any separate dividend that is paid on the American business in your business? A. No, sir.

Q. Do you transmit the profits from New York to the home office? A. They have a right to draw them if we have any. They have the right to draw them.

Q. How much did you transmit last year, do you remember? A. I really do not remember, but, as a matter of policy, the company has been adding to its assets in this country from year to year. 20 years ago, when I began, we had $200,000. We have now approximately two and one-half million dollars, and the policy is to leave the money here. There was not a great amount sent away. Let me explain in that line.

Q. Before you go ahead, what dividend do you pay? A. My recollection is, but I want to verify that, because it is not under my cognizance — my recollection is that we pay 20 per cent.

Q. On a capital of how much? A. Capital paid up of $1,250,000, with a liability on the part of the stockholders for about $12,000,000 additional. I want you to consider what that means. If New York burns and our two and one-half millions would not pay that, those stockholders are liable for those $12,000,000.

By Chairman MERRITT:

Q. That is part of what they are paid for when they get a dividend? A. That is part of what they are paid for. They have it themselves as their liability in that stock.

Q. What was that $1,250,000 paid on? A. The $1,250,000 paid-up capital, that is on their world-wide transactions.

Q. You do not know what percentage of the New York business would be represented in that dividend? In other words, what would be the net dividend payable on the New York business? A. I could tell you that in this way: The United States business of my company is approximately one-third of its whole business, and by a coincidence its results last year were approximately the average result of the world. Therefore, about one-third of the dividend was paid.

By Mr. Hurrell:

Q. What was your surplus in addition to that $1,250,000, Mr. Lock? A. The world over?

Q. No, the surplus. You answered the question that you paid 20 per cent upon capital stock of $1,250,000, as I understood you? A. Yes. Then you mean surplus not in the technical way in which we speak of it here, but you mean surplus of premiums beyond losses and expenses. Is that what you mean?

Q. No. Yours is an English company? A. Yes, sir.

Q. You have not any capital stock specially to do the business with in this country, have you? A. No, sir, beyond what is held by State departments, you understand.

Q. You have simply a deposit put up here? A. Yes.

Q. Of some certain amount? A. Yes.

Q. Now, your entire capital of the English company is $1,250,000? A. Paid up; yes, sir.

Q. Paid up, with a liability under the English law for an assessment of 12 times, did you say? A. That is a liability of — it approximately amounts to ——

Q. I know what you mean. That is to say, your stockholders are liable to contribute to the corporation a total of $12,000,000 if this $1,250,000 is wiped out? A. Yes, and their other surplus wiped out.

Q. Now, do you have in your statement of this English company a surplus beyond that $1,250,000? A. That is capital. That is not surplus at all. Our funds are approximately — applied to the fire department, are approximately about $5,000,000. Then,

back of that they have this uncalled liability of the stockholders, I mean which is an uncalled liability of the stockholders.

Q. Well, I am trying to get something that is strictly analogous to an American company. An American company has a capital stock in the fire business. It may run over a period of years, and it has, to protect its policyholders, its capital stock, and then it has its surplus, using the surplus as it is used in the statements to the department? A. Yes.

Q. And besides that it has unearned premium funds. What is the equivalent of the American surplus in your company? A. I would be very happy to verify it, but I should say off-hand it is probably about $2,000,000.

Q. That is in addition to capital paid in? A. Yes.

Q. And that surplus there would represent just what a surplus does in this country; earnings which have not been drawn by stockholders? A. Yes, sir.

Q. So that the entire amount of money of the stockholders that was at risk or working in that business was that capital of $1,250,000, and the surplus which they had not withdrawn, but left there, of approximately $2,000,000? A. Yes, sir; I give that figure. I do not want to be held down to it; but that is the idea; about that.

Q. So that the earnings of 20 per cent dividend on the million of capital, as a matter of fact, would be a lesser percentage of dividend if you had applied it to all of the capital they had in the business, counting business and capital? A. Yes; quite so.

Q. Now, did I understand you that that 20 per cent was on this world-wide business? A. Yes.

Q. And is your English company in any other lines than fire? A. It is, but under the law they are kept separate and distinct.

Q. In this country? A. In England too. That is the life companies have to be kept distinct and separate from the fire.

Q. That is your fire side of the world? A. So I speak of the fire side alone.

By Judge BRUCE:

Q. Looking at your report made to the Department of this State last year, the amount remitted to the home office was about

$290,000? A. Yes. That does not necessarily represent profits, nor does it represent profits.

Q. It only represents funds transmitted? A. That is, funds transmitted.

By Assemblyman Foley:

Q. If that was profit, that would be more than enough to pay the world-wide dividend? A. Yes, but it was not profit, sir.

Q. Is that the New York business only in that report? A. That is the United States business.

Q. Entire business of the United States? A. Yes, sir.

Q. You do not know the percentage of the New York business represented in that total amount? A. The New York business is recorded in there, I suppose.

Q. It does not appear here, unless that is the New York business. I do not see why they should have United States in here. It is a New York report. Is that right, Mr. Hurrell?

Mr. Hurrell: They report that here because their deposit is here, Mr. Foley.

The Witness: Net premiums received, $202,000; rent and salaries, $17,000; losses incurred, $78,000.

By Mr. Hurrell:

Q. Your deposit is in New York State, is it not, Mr. Lock? A. Yes, sir.

Q. So that for the United States business you are substantially a foreign company domiciled in New York? A. We are.

Q. And in that way you are looked upon in the other States? A. We are.

By Chairman Merritt:

Q. Speaking generally, on what scale are the officers of such company paid, not going into any special detail. Do they get pretty generous salaries? A. In this country?

Q. Yes. A. They vary enormously — as to the salaries paid to officers of domestic companies — they vary from, for a chief manager — why, I suppose 300 per cent between the highest and lowest.

By Judge BRUCE:

Q. And do they compare with those paid by our domestic companies? About the same range? A. About the same range, excepting that some of the domestic companies have contingent compensation features which are exceedingly valuable, and which would not be equalled in the foreign countries.

By Chairman MERRITT:

Q. Commissions on gross receipts, or something of that sort? A. Commissions upon profits.

By Assemblyman TOOMBS:

Q. It has been testified here, I understand, that 40 per cent of the gross receipts of the fire insurance of this city and country are used in the operating expenses of this country.

Judge BRUCE: We have gone over that, sir.

By Assemblyman TOOMBS:

Q. I wanted to ask you if you could give us your figures as to the percentage of operating expense in your company? A. My company? It is almost identically the average; just a little over 38 per cent for the United States.

Q. How about your foreign business; same percentage? A. Our foreign business for the world over this last year was about a little under 38 per cent; for the world-wide business.

By Assemblyman FOLEY:

Q. Do you charge the interest on your surplus as profit? A. No, sir, it is not included. It is not included in the underwriting profit.

Q. No, but it ought to be considered in any regulation of rates, or any matter of income? A. Do I understand that, in your opinion, the money that the stockholders pay in, or the company furnishes from the other side, as the basis of our doing business here — that the interest upon it should be included in our profit?

Q. No; no. A. That is where our interest comes from.

Q. It comes from this statement here that there is a profit of $65,000 a year interest, I mean return on bonds and stocks? That must be on the surplus fund? A. No. The requirements of the New York State law are that we must have a certain amount of funds here in proportion to our liabilities as a condition precedent to doing business. The bulk of that money is supplied from the other side of the water.

Q. That only amounts to a few hundred thousand dollars? A. I say, the bulk of that money is supplied from the other side of the water, and the interest upon our investments figures there separately and distinctly from the underwriting, which is separate from the bonds.

Q. The reason why I have asked that question is, I have noticed the return from the investment, that is the surplus, I take it, forms a large percentage of the company's profits, and I wondered whether you considered that ought to be taken into consideration in any question of the reduction of, or increase of, rates, or do you consider the underwriting business should be considered separate and apart from the investment return? A. Well, as regards that, I would be perfectly frank in saying that I believe it would not be out of place to figure a certain percentage of interest earnings upon the premium reserve as belonging to the underwriting, but I do not say that money that comes from other sources, or that is legitimately the property of the company should figure — the interest should figure in the underwriting profits.

By Mr. Hurrell:

Q. In other words, beyond thinking of the underwriting profits, Mr. Lock, your company works on the theory that the unearned premium reserve is liable to return at any time to the policyholder? A. It is.

Q. On cancellation? A. It is.

Q. And, therefore, if you will figure up what you have made on underwriting, you should, and the earnings of the unearned premium reserve to the premium income? A. I say theoretically there is something in that.

Q. In order to arrive at the amount the policyholders have con-

tributed to the company to pay expenses and losses? A. Yes. There is something, theoretically, in that.

Q. But you dissent from the view of mixing into the underwriting profit the profits your money would have earned anyway if they had been put at interest. That is your view, is it? A. Yes, sir. The stockholders own that money. That belongs to them and is in the company at the risk and peril of being wiped out by conflagration, in order to give confidence to their clientage. Now, they could draw that out and spend it, and invest elsewhere, but they leave it to give confidence to the clientage, and it is at the peril of having it wiped out any minute, and if it was not there and they used it in other ways, it would not be wiped out in that conflagration. That is the point, and therefore I do not think the interest on that should figure in the underwriting.

Q. Now, just to keep the situation clear: This 20 per cent dividend on the capital stock of the company — were the earnings used to pay these dividends, from the branches of its banking business and these investment features, as well as underwriting? A. As a matter of fact our dividend is practically paid from our investment.

Q. Without trying to analyze why, or ask you to —— A. (Interrupting) The underwriting furnishes very little in the payment of our dividend. That is the situation.

By Assemblyman FOLEY:

Q. Mr. Lock, may I suggest this: If this surplus, or you call them unearned reserves, or do you distinguish? A. We make a distinction between unearned premium reserve upon which the policyholder has a lien, a proprietary right, and surplus which has been earned by the company, and is the property of the stockholders, and which they could take it, if they so desired.

Q. You regard that as a company asset, and as belonging to the stockholders? A. Yes, sir.

Q. If that had been paid out in the form of dividends, of large dividends, it would have probably brought about some action upon the part of the policyholder, wouldn't it? For example, if the State had some form of regulation over these insurance companies' rates, if a company showed a dividend of 100 per cent, of 150 per

cent, there would certainly be some complaint upon the part of the public on the extent of the rates charged, and also by the State to force a reduction? A. I do not see, sir, that it would change the situation from what it is. That is, anybody can take the stub of a pencil and figure that there is that money that belongs to the stockholders and it shows just as clearly as if it was paid out in dividends, and if it is enticing, if it is enticing and looks exceedingly good, there is lots of money floating around this country, if people would say, "We will go in and we will do likewise," but back of that money that shows there is a tremendous peril. A man has got it to-day, and is not likely to have it again to-morrow, and does not enter for that reason, and therefore if the State interfered and said, You gentlemen treat that as stockholders' money, it would destroy the accumulation of these reserves which are at the peril of your conflagrations.

By Mr. Hurrell:

Q. Well, of course, Mr. Lock, if a company should do as suggested, that is, pay every year any dividends that each of the stockholders own, the result would be that you could not stand even a small conflagration, because you would not have anything but capital at risk, isn't that true? A. Precisely. We could not fill the function of an insurance company. Now, we understand the function of the genuine insurance company. I am not talking about these little side shows. The general function is to furnish a stable foundation for the credit of the business of the country, and we are willing to show our good faith in that, by putting up millions back of it.

Now, then, if this is to be regarded as money that in any way represents profits of underwriting, or subject to holding down the rate, because it is there, the inevitable effect must be that money will be drawn away, and we will cease to be able to furnish what the community must have; that is, a foundation for credit.

By Assemblyman Foley:

Q. Is there any fixed ratio between the amount of business you write and the amount of this surplus? A. No, sir, it all depends

upon the individual policy of management of the company. Some stockholders are greedy and want to divide it out all the time. Others say we will leave it, and we will build up a company that is worth while. It is a matter of individual policy.

Q. Simply a matter of each company's own individual business? A. Yes, sir.

By Judge BRUCE:

Q. Passing to another subject, Mr. Lock, the fire waste in Great Britain is many times less than it is in the United tates, is it not? A. Yes, sir.

Q. What is that due to and what could be done, by way of legislation, to lessen fires here, from your point of view? A. Primarily it is due to——

Q. (Interrupting) Well, may I first, before you go into it — will you give us some idea of how much less it is in Great Britain than here? A. I should say about one-third.

Q. About one-third the fire waste in Great Britain than it is in America? A. Yes, sir.

Q. Now, what is that due to? A. There are two or three prime causes; one is character of construction, as it has been in the past; secondly, the nature of the community as an old, conservative, settled community; thirdly, climate to some extent.

Q. Does our present day construction compare favorably with the present day construction in Great Britain? A. Yes, and no. The so-called fireproof construction or the slow burning material construction you have but is as good as can be found anywhere. In the dwelling houses and the mercantile stores it is exceedingly inferior. It is inferior beyond the power of comparison. For one thing, there are scarcely any frame buildings there; another thing, the brick building in this country, for ordinary dwellings and mercantile purposes are nothing but a shell of brick with a frame, interior lath and plaster frame. There the interior partition walls are very largely brick as well as the exterior walls. The consequence is the rate of combustion is exceedingly slow; communication from building to building is practically non-existent; every roof is an absolutely tight

fireproof roof, and in the absence of frame construction and the absence of shingled roofs, and in the absence of this direct veneered frame buildings, the type of construction there, the vast bulk of buildings is still far beyond what the type of construction here in this country is. Upon that legislation can do an immense deal through building codes, but it will take 15 or 20 years before the effect of those building codes can be seriously felt.

Q. Now take up the question of the difference in population and character of the population; in what way does that affect the burning risk? A. It is self-evident that in the old settled conservative communities where the son takes the father's business as a matter of course, and with the habits of care and thrift that are produced, where money is hard to get and is not quickly spent, you have a very different proposition from a population poured in from all parts of the world, and which comes and tries this to-day, takes up another line of things to-morrow, and next week pulls up stakes and goes away, and his place is filled in by some new experiment. There has been no learning of habits of order and care; and with tens of thousands of enterprises they are pure experiments; they do not succeed. It doesn't matter. Go somewhere else, and do something else. And the complex elements that are thrown together in these huge multiple tenant risks, all these elements tend to produce causes of fire carelessness in the state of mind about fire, and there is no public sentiment at all back of that to cause any concern whatever whether a fire has occurred or whether it has not occurred. Who cares. The insurance company will pay the money. They will not only pay the money loss, but it is a very well known fact that they will pay more. Who cares. You don't care. You help to pay the premium, Judge Bruce, but you don't care. I am speaking broadly. We assess three times the amount of money that they assess in Great Britain, and the general feeling is if some poor fellow has had a fire let him have his money. Well, who pays it? It is not the insurance company. You pay it. If that is the condition you want you can have it. If you want to change it you can make your law to change that habit of men to some extent.

Q. Is the moral hazard in this country greater than it is in Great Britain? A. Infinitely.

Q. Is that shown by the statistics in relation to incendiarism and arson? A. I don't know that statistics show it, because it is a thing that is perfectly intangible, but a close study of over forty years of loss reports and all the surroundings enables one to answer with great confidence that the moral hazard is infinitely greater here.

Q. Do you have any statute in Great Britain imposing a punishment upon a person through whose carelessness a fire has occurred endangering the property of his neighbor? A. No, sir, we have nothing corresponding to the Code Napoleon in France.

Q. Nothing whatever? A. No, sir.

Q. Now, on the question of the difference in climatic conditions? A. The general dampness of the climate, the absence of extreme heat and extreme cold — here in this country the extreme heat dries everything externally, and is a cause of rapid spread of fire as well as the rapid start of a fire. Then in the winter the extremes of cold cause that the internal conditions are driven to the extreme. Every furnace, every boiler, every producer of heat, is driven to the extremes. You have frame inside construction and everything is like tinder. Everything in the old country, in the little town I was born in, 8,000 inhabitants, they used to have about two fires a year. They got a fire engine that was literally built early in the reign of George III. That machine used to run about twice a year in a town of about 8,000 inhabitants, and it took a long time to gather the fire brigade and get out; but then the fire always waited. There was never any difficulty about that. It is the heat of summer and the internal heat of winter here in this country that drys everything like tinder, so that the fire is just like the American character; it is off quick, does things quick. Over there the fire just waits until the boys can get down and pull out the engine and come up there and put it out. That is what I mean by climatic conditions.

Q. It has been suggested here that it might be wise to put a statute upon the books providing that no person on whose premises a fire starts except from an act of God or the common enemy, should recover more than seventy-five per cent of his actual

loss? A. Judge, it would not be worth the paper it was written on.

Q. You think not? A. No, sir.

By Chairman MERRITT:

Q. Why not? A. Your community would never stand for it.

By Judge BRUCE:

Q. If it were written? A. It would never stand for it.

By Chairman MERRITT:

Q. The companies would not seek to enforce it? A. They would not, and what does it matter to the companies? The companies will do what the community wants, because eventually the community pays the companies what they have paid to the community. All sympathy goes with the man that has had a fire, never mind how it came, that is where sympathy goes. You get him up before a jury, and you know the man is a scoundrel who has produced that fire, yet what does it matter. Let him go. And those jurymen sitting in the box, they pay that man's loss in their premiums. We do not pay it.

By Mr. HURRELL:

Q. I want to ask you one more question, a question regarding your opinion of the situation in New York city. You know, as I see you have been following the evidence, —— A. I have not read it all.

Q. One of the greatest points of interest both to the Committee and the public is the New York Fire Insurance Exchange. Now, I would like to ask you what in your judgment, in your honest opinion, would be the result if the Fire Insurance Exchange were abolished by law, what would the companies probably do, what would the result be to them, and what do you think the result would probably be to the public? A. That is a long question. The first result I think would be that the companies would try it out. That is, they would continue under the conditions that might be produced. If the conditions produced were similar to

the conditions produced in 1898, after a few months there would be a withdrawal of companies from doing business in the city of New York, and there would be a heavy contraction on the part of those that did not withdraw in the volume of business that they would write, and there would be a close selection of fireproof buildings, automatic sprinklered buildings, and a retirement from the protection of other classes of property; and if the anology of 1898 was followed the rate of the occurrence of fires would increase very abnormally by the withdrawal of the inspection work and the penalizing for bad conditions, rewarding for all good conditions that have been withdrawn.

Q. You are speaking now of the schedules? A. The application of the schedules, which touches the pocket. Those were the conditions of 1898 which brought things to this position in New York that had there not been a quick emergency forming of the Exchange there would have been a wholesale retirement of insurance capital from New York city, and if you revert to those conditions I do not see why history should not repeat itself.

Q. Do you think, Mr. Lock, that the result of that would be that after the conditions got to the point you have described them in 1898, and assuming a statute which forbid the organization of another Exchange, that the companies would retire from the field, and that smaller companies that stayed in the field would probably be bankrupted by the conditions then created? A. Would they what?

Q. Would the smaller companies that dared to stay in the field probably be bankrupt by conditions here? A. They would be bankrupt before the larger companies would quit.

Q. Do you think that that condition would result finally in the larger companies that were left practically dictating to the merchants of New York how much they would have to pay for insurance, with a consequent increase of rates from the present? A. I am afraid it would have to, in this way, that we would be brought to a condition where we would simply have to say we won't sell our indemnity at less than so much, and while it is not dictation it is a business condition.

Q. I did not mean that in an offensive way. A. Yes, it is a business condition; it is inevitable.

Q. It is a fact, is it not, that the merchants in the congested districts have difficulty now in getting insurance? A. They certainly have. The estimate is freely made, I guess it is about right, that there is a million dollars at night under extreme conditions that might be wiped out in a fire, and it means a tremendous pressure all over the world. We carry under protest as it were under pressure, to try and do our duty by the city here, a great deal more than we would voluntarily carry, but we recognize a certain kind of obligation when we do business here that we should take a part in that burden. Now, we never get to the point where we cannot pay one hundred cents on the dollar. If the city is burned from 14th street down to where we are sitting — we never get to that point. We do not think it is fair, but we have got a great deal more at risk than we would like to have at risk. The pressure is always on us in that way.

By Judge Bruce:

Q. That is, in New York in those districts to which you have referred where the large values are, the merchant is not being drummed for insurance, but he is around looking for insurance? A. It is being pressed on us all the time, and we are being squeezed in every possible way to take a little more and a little more to help out; yes, sir.

By Mr. Hurrell:

Q. And would you say that this need for the insurance is the answer to the question of why should the State permit combination? A. My own feeling is you know that unfettered association of companies in the long run always gives the best results and the cheapest, but if it comes to a question of State law, about which I am not qualified to speak, I would say that there exists an emergency here which is not only State, it is National, and international, for if that event occurred here in New York it would disorganize things everywhere. Anything that you propose to do at Albany, you ought to bear in mind that you have a situation here that does not exist in any other spot in the world, and you want to be exceeding statesmanlike in how you deal with that situation.

Q. Do you think, Mr. Lock, that after conditions become settled in New York city so that there is not a change all the time in the character of occupancy and character of tenants which is ever going on, if it ever comes to that, but assuming it might come, do you think then there would develop a condition where there would be exchange and non-exchange companies? A. I do not see why there should, because I claim that the Exchange is best for the companies and best for the community, and I think it would be exceedingly foolish for there to be any non-exchange companies.

Q. The reason I asked that question was because Mr. Markham, who was here from St. Louis, suggested that he thought the very changing conditions made necessary the existence of a close combination in order that the schedule would be applied unmercifully and rates held in hand, but that if conditions ever did get settled so that there was not that present condition there might be non-exchange and exchange companies, as there are, as his statement was, in most of the other cities in the country? A. Well, I think that as a matter of business management something analogous to the Exchange is the thing which is best in the interest of the public, and which eventually will produce the lowest rate and the lowewst cost of transacting the business. It is a matter of efficiency of giving the public what they want, and I think the Exchange or something on that line is best; and I cannot imagine that within the lifetime of your family, if you have any, that there will come about a condition of things, say in this community, where that would not be true, because this city is not going to get down to any settled conservative condition of things in your lifetime or mine.

Q. I want to ask you before we adjourn, Mr. Lock, one more question about the Eastern Union; I do not remember that there was brought out that recently there has been action in increasing commissions? A. Yes, sir.

Q. I want you to state, if you will, what the companies faced that made them give way to that demand? A. When you say there has been a change, the principle has been admitted, but there has been no application of that principle. The constitution has been changed so that we can pay graded commissions so-

called; and the occasion that has brought it about has been the hammering of agents, and the stress of competition from the 150 companies or so that are outside of the Eastern Union. They have made such a condition that the business which has been built up over many long years by the best class of companies is being bought away from them in their own agencies, and as a matter of self defense with extreme reluctance the companies have come to that attitude.

Q. You have got one organization of companies there which if all the companies had belonged to it, if all the companies in the field had belonged to it, and applied the combination principle to holding down commissions, the public would have benefited? A. They would certainly.

Q. And the condition you have got there where the agents are forcing up commissions is because you have not got all the companies in the field in your organization? A. That is it. This thing has been warded off and warded off for the last two or three years, until it has got so that the point is reached that we had definitely resolved to dissolve, break up our 15 per cent organization, and go out into the open field of competition, and ——

Q. Outbid your agents by bidding up competition? A. And save the business that was upon our books from this form of competition, or to fight for it, and this is the alternative.

Q. What is that particular plan you say of the maximum payment that the Eastern Union adopted? A. They adopted the principle of 15 per cent upon manufacturing business and mercantile stocks. Mercantile stocks are very unprofitable. We only write them because we have to. 20 per cent upon mercantile buildings, and such things as churches, schools, and certain other classes of risks of that kind. And 25 per cent upon dwellings and public buildings owned by municipalities and counties and so forth; that is roughly speaking.

Q. Those are the net rates permitted to the Union companies? A. They were adopted this week, and which we have liberty to put in effect if we so feel in the course of the next two or three months.

Q. Do any of your companies conduct their business with their agents on the contingent commission plan? A. Not as connected with the Union, no, sir, not in Union territory.

Q. The Eastern Mutual does not prohibit it though if the companies wish to adopt it, does it? A. In the past; yes.

Q. How about now? A. In view of this new departure, there is now under consideration an alternative contingent form of compensation that will be about the equivalent of the graded commission if we can work it out satisfactorily. It is under consideration before the body in that way.

Q. What do you think of that plan yourself, Mr. Lock, of the contingent commission? A. Individually, I have always been in favor of it, but the mass of my colleagues do not think it is a practical thing.

Q. What is their objection to it; what is the main argument? A. There are a great many objections to it, and they usually take the form of some concrete instance. For instance, a man in the lumber district whose agency mainly covers saw mills, a very dangerous class, and where, for a number of years, his agency had been very unprofitable. This was not in the Union territory; and he said to his companies, he would like to have contingent commissions. We said, what do want contingent for, you don't make any profit in your agency. Oh well, he said, I represent fifteen companies, and on an average I make a profit for about nine of my companies every year, and lose for about six, so that I would make a profit out of most of my companies every year; it would not be the same companies, but it would be different companies of them, even though I was doing a losing business, don't you see; and one might multiply the objections without number.

By Chairman MERRITT:

Q. It would not be possible to make the contingent commission depend upon the net result for all the agencies? A. No, sir; because that would involve a sort of pooling of the experience of all of the companies, and that is never done. That is, we are in agencies with other companies and we don't know what they do, what business they do, and what their results are.

By Mr. HURRELL:

Q. You have spoken of the pooling of the experience. Do you think that the public complaint would be relieved if all the com-

panies did pool their experience and use that as one element only in which — I don't say to base the whole rate upon it, but use the experience as one element in making up the rate? A. Do you mean the classification?

Q. Yes, of the loss experience? A. The clasification to my mind could be unsed in the same way as a clinical thermometer or a compass on board a ship. The compass can show the ship is off her course and that there is something wrong. A clinical thermometer may tell that there is something the matter with the constitution of a man, but they do not tell you what is the matter; and a classification of it is used simply an an indication of that kind, that there is something abnormal could be of value, but to use it as a measure for the making of rates, I do not think it is possible.

By Judge Bruce:

Q. The compass also shows that the ship is on the right course? A. I say on or off the course; it is an illustration, that is the point of it. I am a believer in the value of a classification, but I am not one of those who believe that it is a measure for the making of rates absolute.

By Chairman Merritt:

Q. It is a fact that the companies do not collaborate much on that because they do not regard that their experience is the business of anybody else particularly, isn't it? A. Mr. Chairman, twenty-five years ago, when I first came to this country, there was a very general position of jealousy, but in recent years I believe it has honestly changed to the opinion that it is liable to do more harm than good in trying to make it do what it can't do. If a joint classification could be kept to a legitimate use I think there are plenty of companies, if not all companies, that would be willing to join it. I know I would.

By Mr. Hurrell:

Q. Do you think if the department, for instance, devised a uniform blank for use in reporting experience, so that you would

have the same thing coming in the same way from all companies, that it would be useful, or altogether misleading for the public to know what the results were from all of the companies? A. I think it would be useful, but it is more likely to be misleading in the use that would be made of it, because when figures are brought together like that, nine men out of ten would believe that they had got a pretty sure index, and the tenth man would know that they were in a hopelessly misleading position. This is a pretty technical business.

By Chairman MERRITT:

Q. We deal some what in analogies here. Do you think that perhaps the layman, taking a classification like that and attempting to deduce a conclusion, would be as much astray as he would be in the drug store where all the things are wholesome? A. Yes.

Q. But if he attempted to compound them he would probably make some mixtures that would be very, very dangerous for people to absorb? A. A very good illustration; and if a classification was open to the public, there is just half the public that would want to use the classification, and the half of the public that would want to use it would be those whose rate was above the average. Now, a classification is a question of averages. You have to take the fellow that is below and the fellow that is above, and the only people that have any use for the classification in the general public would be those fellows whose rates are above the average.

Q. Has there ever been any attempt at regulation that you know of that has not been for the reduction of rates? A. I cannot conceive that there should be. Why should there be.

Q. Logically, why ought not an attempt to regulate by a board or otherwise the rates in any business, why ought not that board have as much power to raise as to lower rates? A. Well, as a practical question the community would never stand for it. I think there is only one logical end to the State rating idea, and that is that when the State has made a rate then it shall say to the companies that are admitted to do business in that State, now, you have got to write that business at that rate; take it or leave it. You have got to write it, and then the companies would write it or quit.

By Judge BRUCE:

Q. But, of course, if the company made the rate in the first instance and the State had, say, the right to reserve to itself the right of review, and the protest was made, there would then be no question of raising rates, because the companies having fixed them in the first instance, there would be no necessity on the part of any governmental agency to raise the rate? A. I do not think we could ever reach any practical conclusion for this reason: You take a place like Atlantic City. Now, Atlantic City for the insurance companies has been a perfect gold mine. It has been there for all these years. The rates are higher there than anywhere else that I know of, and the companies have just simply raked off a heavy profit from Atlantic City every year. Why? Because Atlantic City is exposed to a sweeping conflagration from end to end every minute. For that reason the Atlas makes an exception of Atlantic City and is not writing business there. You apply your experience to Atlantic City, and you say Atlantic City ought to have a lower rate than any other place in New Jersey because it has shown a higher profit, and you make a rate that is according to the classification and there is not a solitary company that will write a dollar in Atlantic City. Or you take another concrete instance: For thirty-five years, as Professor Whitney knows, San Francisco was without exception the most profitable large city in the United States. Wherever any company went, whatever they kept out of, they all went to San Francisco. Now, there comes a fire after those thirty-five years which inflicts a loss on San Francisco that one hundred years cannot possibly recoup from San Francisco, but if you apply your classification idea to San Francisco in 1905, it would be all blown to the winds by the occurrence of 1906. We have to apply these things by conditions. Your man from Rockaway Beach here the other day crying out against his three per cent rates upon a dwelling. Well, who wants it? I am sure I don't. We don't do a dollar of business there; but yet the experience of Rockaway Beach in the past has been a very low rate. It has not burned, but the conditions are there. Give us a thousand Rockaway beaches and out of that thousand you will find that there will be a good many of them burn in the course of a year.

That solitary one has not. It is bristling with difficulties all around. It is a pretty technical business.

Chairman MERRITT: We will adjourn until 2 o'clock.

Recess till 2 p. m.

AFTER RECESS.

Chairman MERRITT: The Committee will be in order.

JOHN A. HARTIGAN, called and sworn as a witness, testified as follows:

Examined by Judge BRUCE:

Q. You reside in the State of Minnesota, Mr. Hartigan? A. Yes, sir.

Q. And you are Superintendent of Insurance of your State? A. Commissioner of Insurance, yes.

Q. How long have you held that office? A. About three years and a half.

Q. Have you in your State an anti-compact law? A. We have not; we have an anti-trust law, but no special anti-compact law.

Q. Have you the valued policy law? A. We have.

Q. Have you the co-insurance law? A. Under certain conditions, limited to risks of over $20,000, and granted only upon the written request of the owner or the insurer.

Q. Has your anti-trust law been construed to apply to combination of insurance companies for the purpose of fixing rates? A. It has not.

Q. How are rates regulated in your State? A. There is a rating bureau known as the "Western Inspection & Rating Bureau," conducted by Mr. Fischer, who rates the property in Minnesota and the Dakotas, and sells those rates to the insurance companies. Previous to two years ago the companies employed Mr. Fischer to do this work. Two years ago they changed the method.

Q. And how many companies adhere to his rate? A. Practically all. There is one company that claims to make its own

rates, and there are a few mutual companies that claim they make their own rates. I think with scarcely any exception they all buy his rates.

Q. Then, in practical effect, you have uniform rates adhered to by the companies? A. Practically so.

Q. And little or no competition? A. Very little in regard to rates.

Q. Has your State ever contemplated the adoption of an anti-compact law? A. Well, such a bill has been introduced several times, but has never been passed.

Q. Would you be willing to express to the Committee your views, based upon your experience, in regard to the wisdom of anti-compact legislation? A. I would. My views are probably at variance with those of a good many others. Instead of forbidding companies to combine, I would force them to adopt the same rate, so that there would be uniformity in rates.

Q. Well, in connection with that, would you reserve to the State any supervision, or regulation of rates? A. Yes. I have recommended a board of appeals to which any aggrieved person could go, stating that his rates were too high, or he was discriminated against, or anything of that sort. The board to act as a quasi court, or as a court, if that were possible; to decide on the merits of the question. The companies being cited to appear and show that their rates were not discriminatory, or too high, and the complainant, of course, endeavoring to show they were too high. This board having the power to order reductions of rates where, in their opinion, it was shown that the rates were too high.

Q. And what has been the attitude of companies doing business in your State with reference to this recommendation? A. I can hardly say as to that. I have talked with a number of fire insurance men. Some of them seem to favor the general plan; others do not favor it. In general, their attitude is they are opposed to any legislative interference. They are opposed to the introduction of a law they consider satisfactory, because you cannot tell in what form it will emanate from the Legislature. It may go in in perfectly satisfactory form, but it may come out in unsatisfactory form.

Q. How long has it been in your State since you have had open competition in the companies on the question of rates? A. You mean, theoretically open competition?

Q. Yes, theoretically, of course? A. Well, for a good many years. I can't give you the exact period, but for a long period.

Q. Has your experience shown that rates have been advancing or decreasing in your State? A. In general, I should say that the change had been rather lowering than any other change. Now, of course, there are exceptions. The lowering of rates is probably due to building conditions; more good buildings being put up. I can only speak of the average rate. There have been increases on some classes, and on other reductions. For instance, on the 15th of November, the companies put into effect a reduction on dwelling house rates, in this way, that they removed the exposure charges on all dwelling houses in the southern part of the State; that is, outside of the timber country. We have peculiar conditions in our State. The northern part is known as the timber country, and the burning rate is very high there.

Q. Has any bill ever been introduced in your Legislature incorporating your views with reference to the plan of regulation? A. No, sir.

Q. You said you had a valued policy law in your State? A. We have.

Q. How long has it been upon your statutes? A. For a long time; I can't give you the exact period. Had I known I was going to testify here I would have looked up some of these matters, but I should say for at least ten years.

Q. What has your observation been in regard to its operation in your State? A. Well, it is hard to make — it is difficult to make any general statement in regard to that. The sentiment of the people is undoubtedly in favor of its continuance; although, the fire marshal has recommended that it be repealed, and a bill was introduced in the Legislature at the last session, 1909 — to repeal the valued policy law. But it never got beyond the Committee, and had a very short hearing there.

Q. What were the grounds of his recommendation? A. That it increased the first losses; that it gave the dishonest men an opportunity to burn down his property and make the insurance companies pay for it.

Q. That is, make a profit out of a fire? A. Yes.

Q. Well, theoretically, in your judgment, is the valued policy law wise or unwise? A. I could not answer that question directly. I may give you my idea. The valued policy law, in my State, was passed on account of certain conditions. Those conditions were as follows: The insurance agents urged the property holder to insure for an amount much greater than the value of his property, in order to get the increased premium and the increased commission. Then when a fire occurred, a man very often thought his property had that value, and when a fire occurred, he was paid upon the basis of his actual value. He paid premiums upon one basis, and was compensated on another. That gave rise to so much dissatisfaction that it resulted in the passage of this law. If those conditions could be eliminated, then I can't see any reason for the valued policy law. I think that the valued policy law does give the dishonest man an opportunity to sell his property to the insurance company, or rather to the public through the insurance company.

Q. Is it, in effect, anything more than incorporating into a contract a covenant with reference to liquidated damages in the event of a total loss? A. That is practically what it is.

Q. But I presume that the practical difficulty is that the fire insurance agent does not, with that degree of fidelity with which the company itself would perform its business, devote himself to the interests of the company? A. That is the trouble.

Q. That is, if the company, at its home office, had an opportunity to view a risk and appraise it, and then to incorporate a covenant into the policy that in the event of total loss the liquidated damages would be so much, there would be nothing inequitable, impracticable, or unjust about it? A. No.

Q. But where it has to pass through a middle man, the company being represented by an agent, there, to a certain extent, it is. A. Our law requires that the company, through its agent shall view the property and fix the value; but that is not done.

Q. I presume that is almost a dead letter? A. Practically so.

Q. You say a co-insurance clause is permitted on property over and above a certain value? A. Yes.

Q. What is that amount fixed at? A. $20,000.

Q. $20,000? A. Yes.

Q. Under that it is not permitted? A. Not permitted.

Q. What has your observation been in regard to the working of that statute? A. It has worked quite satisfactorily. The companies have desired an extension, to cover all property. The department has opposed that, on the ground that the small insurer would not understand the contract. The Legislature has seemed to fix the owning of a certain amount of property there as the standard of intelligence, inasmuch as if a man owns $20,000 worth of property, he is presumed to be intelligent enought to understand the co-insurance clause.

Chairman MERRITT: Does it work pretty well that way?

The WITNESS: It works pretty well. Occasionally we have a complaint that a man doesn't understand it; but they are very, very few. The conditions generally being entirely satisfactory.

Q. Do you have a class of insurance men in your larger cities known as brokers? A. Yes; but they are limited in number. We haven't many.

Q. I presume they are licensed by the companies, or by their organizations? A. They are generally attached to some particular agency; in other words, they are generally solicitors for some agency. They are generally brokers as you have in New York.

Q. Not as we have them in New York? A. No.

Q. They represent the companies, and are paid by the companies? A. No; they represent the insured and are paid a commission on the business by the agent.

Q. Out of the premium? A. Out of his commission.

Q. Then they are, in fact, almost the same as what our brokers are here, excepting here the Fire Insurance Exchange, speaking of the metropolitan district, New York, issues the license to the broker? A. In our State we issue the licenses; the Insurance Department issues licenses.

Q. To the broker? A. Yes, sir.

Q. How much is your license fee? A. Ten dollars.

Q. How long have you had that act upon your statute book? A. For a number of years.

Q. Has it worked satisfactorily? A. Very.

Q. The companies have acquiesced in it, I presume? A. Yes, sir.

By Mr. Hurrell:

Q. I suppose, Mr. Hartigan, that you have arrived at the basis of your opinion about what ought to be done, as a practical matter, rather than as a theoretical matter, in regard to rate making, and the rate-making board you suggested, or court of appeals? A. I have tried to take somewhat a theoretical view of it also.

Q. Is there any difference in your mind, in point of principle, between a board which makes rates to begin with for the companies, and a board which reduces rates after the companies have made them? A. I think there is. Just the same difference there is in your courts. Your judges are required to pass upon a great many technical questions with which they cannot possibly be familiar; that is, they cannot possibly have the knowledge of a chemist, for instance, that is necessary in trying a case, but they are considered competent to pass upon the evidence as presented to them. Not one of your judges could make a chemical analysis of a person's stomach to determine whether that person had been poisoned, I take it, at least, I say not one — very few of them could — still he is competent to pass upon the evidence presented in such a case. Now, your board of experts would not have the technical knowledge necessary to fix the rate, but they would be competent to pass upon the evidence presented, as to whether or not a rate was too high or too low.

Q. I am thinking of the company's point of view, which is, that they are engaged in the business for profit; that they do not have to insure the public, or any part of the public, if they don't wish to take the risk; and that, therefore, they should be the ones to determine what the price of what they have to sell should be; and I have been troubled in finding any difference between a government which makes the rate in the beginning, and the government which says, this rate shall only be so much anyway, no matter what the process — I was wondering whether you had anything to suggest? A. I don't know if I can solve your difficulty. But fire insurance is not on the basis of the sale of commodities. It is a public necessity. The average business man cannot possibly conduct his business without fire insurance. Now, possibly it should be furnished in some other way; but it is furnished by insurance companies. In my State 95 per cent of the business is

done by foreign companies; that is, companies outside of the State. Those companies are permitted to come into the State, solicit that business, and have the protection of the laws, and all that sort of thing. They are not public service corporations. But in my mind they are quasi-public service corporations, and to this extent, must acknowledge and must be controlled by the conditions that are necessary for the public welfare. It is easy enough to say they don't have to sell their protection. They don't. But it is a product which the people must buy; and if the conditions are such that private corporations will not furnish it, then it must be furnished by the State.

Chairman MERRITT: It is not so many years since there were no such things as public service corporations, from the standpoint of the statute, anyway.

The WITNESS: Yes.

Chairman MERRITT: We have found warrant enough in the law and in conditions to put these people in a class by themselves. I take it that it is only a question of final good judgment, as to how you classify any particular corporation, which derives its right to exist and operate from statute. Is that your view?

The WITNESS: Exactly.

Judge BRUCE: I take it, Mr. Hartigan, your view of the court of review, in the regulation of rates, in the capacity of a court or referee, passes upon evidence; it may be thoroughly incompetent in the first instance to say what the rate should be, yet, upon evidence submitted, could say on which side or the other the weight of evidence was?

The WITNESS: That is my idea.

Judge BRUCE: And which side or the other established the fact.

The WITNESS: Exactly.

Judge BRUCE: Then, as a matter of fact, there is a very wide difference between a court of review and a rate-making body?

The WITNESS: My idea is that the rate making should be in the hands of an expert employed by the companies, so that they could not question the value of his results.

Chairman MERRITT: They seem to have taken the position that a competent rate maker must have had an experience in the

fire insurance business of sufficient extent, so that he would have a specially developed judgment, and would be thoroughly saturated with the thing, beyond any question of figures, or individuals' experience, that he might be able to take what evidence there was, and produce a just result as a pure matter of judgment; but they seem to object to the idea of rate making by the State on the ground that that could not exist in a public officer, which I think may be granted.

The WITNESS: Yes, it is more a question of experience, I think, than of judgment.

Chairman MERRITT: Well, judgment is founded upon experience.

The WITNESS: Have I made it clear to you, it is not the man's opinion as to what particular rate a building should bear, but rather the experience of that class of buildings, under similar conditions.

By Mr. HURRELL:

Q. And you say that the difference between the originating of a rate and passing upon a rate after it is made, is a practical difference, and you are not interested in the claim that the companies make that it is a private business. You say, as a practical matter it has become a public business, and, therefore, the State would have the right to take over, at least, the right of reviewing the companies' rate maker? A. That is my view of it.

Mr. HURRELL: Have you any further questions, Mr. Chairman?

Chairman MERRITT: I do not think so.

Mr. HURRELL: That is all, Mr. Hartigan.

Judge BRUCE: Mr. Daniels?

ISIDORE L. DANIELS, called and sworn as a witness, testified as follows:

Examination by Judge BRUCE:

Q. Where do you reside, Mr. Daniels? A. 1775 Madison avenue.

Q. What is your business? A. Attorney at law.

Q. Have you a complaint to make to the Committee, with reference to fire insurance rates on properties in the borough of Manhattan, here? A. Yes, sir.

Q. What property? A. 47 Sheriff street.

Q. 47 Sheriff street? A. Yes.

Q. What is the nature of the property? A. Five story, tenement house.

Q. Are you the owner? A. My mother is the owner.

Q. You are the agent for your mother? A. Yes, sir.

Q. How long has your mother owned the premises? A. She owns it for about three years.

Q. Is it occupied for any business purposes? A. Two stores on the ground floor.

Q. They are on the ground floor? A. Yes, sir.

Q. And the others are simply ordinary tenants? A. Yes, sir.

Q. Now, what was the rate of insurance at the time your mother first came into possession of the property? A. $45 for three years, for $10,000.

Q. That is to say, at the rate of 45 cents? A. Yes, sir.

Q. And at the end of three years, which would be the present year, 1910, what was the rate? A. Three hundred and forty-five to three hundred and sixty-five dollars for the same term of years, same rate of insurance, $10,000.

Q. That is, you have been increased from $45 to $345 or $365, you don't recall which, in the three years? A. Yes, sir.

Q. Now, did you make inquiry why this increase had been made? A. I did, sir.

Q. To whom did you inquire? A. I inquired of my broker.

Q. Who is your broker? A. A party by the name of Bosky.

Q. Where is his office? A. 29 Liberty street.

Q. What did he do? A. Told me he would try to reduce it for me. I asked him what the rate is so high about, and he says he don't know; that was the rate.

Q. Did he make an effort to find out why there had been that advance? A. He told me to write to the New York Fire Insurance Exchange. I wrote several letters to them.

Q. You wrote several letters to the Exchange? A. Yes, sir.

Q. Yourself? A. Yes, sir.

Q. And what replies did you receive? A. They said they would look into the matter.

Q. Did they look into it, do you know? A. I don't know whether they did or not; but they afterwards told me there would be a little reduction there if I would remove the woodwork of the ceilings in the cellar. I removed that, and I think there was a drop, at least, they told me so, of about two or three dollars.

Q. Now, from the time you first owned the property when the rate for three years on $10,000 you say was $45, until the time it had been advanced, had there been any change in occupancy? A. There has been no change in occupancy since 1905. I have had possession of that property in 1905. I afterwards transferred it to my mother.

Q. How long did you own it? A. About three years. I have the policies to show; since 1904 to 1910 it has been $45.

Q. Now, let me inquire, has there been any change in exposure there, have any hazardous risks been built up near to your property? A. No. During the time I have been in possession, not during the time the previous policies were in force, and none that I know of now. The same buildings are there that were before the time I had those policies and paid the $45 rate.

Q. Well, now, when you wrote the Exchange in regard to that rate did they send you back any explanation of the advance? A. They said it was on account of the exposures. There is too shop buildings alongside of me, and I told them that these places had been there all the time; had been there since 1904, the time I paid $45 for insurance.

Q. What companies were you insured in under the old rate of $45? A. The North British and Mercantile.

Q. Both of them? A. Both of them; North British and Mercantile. Lately, two days ago, my insurance broker showed me a policy of fire insurance in the Fire Insurance Company of America, but I told him I didn't want to under that big rate, that is, if I had to pay a big rate I would rather have some old line English company that had a long, good reputation, and as long as I had to do business at high prices I would rather do business with good people.

Q. Did you get any other explanation from the Exchange than this factor of exposure? A. No, sir.

Q. Now, these shops that had been there many years, were they used for the same purpose when the rate was $45 as they were when the rate was advanced? A. Yes, sir.

Q. No difference in occupancy? A. No difference in occupancy, no, sir.

Q. Have you ever asked the Fire Insurance Exchange to give you a schedule of your rate? You know your rate is made up by schedules; that is, by a base rate? A. I believe I did, under the advice of my broker at that time, but he told me to return to him all communications I received from the Exchange, and I returned them to him.

Q. Then you haven't your schedule of your rate with you? A. Not with me, no, sir.

Q. Do you recall how that schedule was made up? A. No, sir, I do not.

Q. Will you get your schedule from your broker and bring it here and give it to us? A. I will if I can.

FRANK LOCK, recalled as a witness, testified further as follows:

The WITNESS: Mr. Chairman, I came this morning at your request, and I come this afternoon at my request, but I do not want to impose on you.

By Mr. HURRELL:

Q. Is there anything additional you wish to state, Mr. Lock, any addition to amplify what you said this morning? A. On leaving the Committee this morning, Mr. Chairman, I thought over the situation a little bit, and desire to add just a little to the evidence given this morning, especially with regard to what was said with reference to New York Fire Insurance Exchange. Some of the questions, or answers, might seem to imply a question of the legality of that Exchange, and I desire to be put upon record as saying that if the Exchange is illegal I do not know it, and have not believed it, or, if I had believed it I would not be

a member of it. I want that to be clear, as not inferring that I had continued in an illegal organization.

Now, if the result of the labor of the Committee is towards new legislation, as following the line of your questions this morning, I desire to add to what I have previously said, that if there is any question of dealing with the local organization, the New York Fire Insurance Exchange, I think that the cardinal points of a full right of association and of joint action should be borne in mind, however it is arrived at, as otherwise I do not believe the companies can do justice to the community here.

You will, perhaps, interrupt me as I make these remarks.

Q. I will, then, interrupt you right there, Mr. Lock. You say whatever legislation might be proposed, that unless the cardinal principle or the organization of the companies —— A. (Interrupting) Of association, liberty for association and joint action is denied, the companies cannot give to the community the benefit that they should have; that that would be crippling, in other words.

Q. Well, of course, the idea of all anti-compact legislation has been an attempt to absolutely make it impossible for the companies to act in harmony, on the theory that such harmony was tantamount to a criminal conspiracy. Now, that is the difficulty. Is there any difference between an anti-compact law, and a law permissive, so that the companies can organize and act together, except an association where the companies get together, but subject to some check from the government? If there is I would like to know it, because those three States are about the only ones that get before my mind. A. The only systems that have been evolved so far are the absolute liberty of association of the companies upon other than grounds of anti-compact legislation, which is handled by an independent rater on behalf of the companies, and reaches the same end, practically, or a State rate-making power which, as to experience is all yet to come, excepting that experience up to the present time is that it will never work. Now, I do not know of anything outside of those three plans in a middle way.

Q. That statement that you just make there substantially says that the public good is best served by the combination of the companies. Therefore, if there is any legislation it ought to be in

such a shape as to leave the present combinations alone. I am not seeking to cross-examine or criticise. I am just trying to get your ideas on the record? A. That is my honest conviction, yes.

By Judge BRUCE:

Q. Well, Mr. Lock, give us the benefit of your views upon this proposition: The State permits the existence of the New York Fire Insurance Exchange which controls the market for insurance in this metropolitan territory, and which absolutely fixes the rate. A citizen comes in, just like the man you have listened to on the stand. He has a grievance; and he said the rate fixed on my property is too high. Now, should not the State, if it permits combination to control the price of what is practically a necessity, have some governmental agency to which a citizen could appeal, and have it determine whether or not it is a fact that his rate is too high? A. Well, in answer to that, Judge, I have put here, that all this is on the proviso that legislation is called for. For regulation, the least obstructive form, would be some kind of court of appeal. Now, I do not advocate it, but I say if it is the intention that there should be, the form that would best serve all interests of all concerns, would be some form of court of appeal.

Q. Yes. That is just what I wanted to get at, and you recognize a broad distinction, do you not, Mr. Lock, between a court of appeal and State rate making? A. Yes, I do.

Q. That is, a court of appeal might be competent to pass upon the weight of evidence, the evidence submitted by the New York Fire Insurance Exchange and the evidence submitted by the citizen, as to the establishment of a fact, and yet the court of appeal be not competent to make the rate in the first instance? A. Yes. That is what I mean by a court of appeal.

By Mr. HURRELL:

Q. Do you see any difference in principle between those two propositions? There is a difference in practice. A. Not in principle, but the one is carried to a much further conclusion, and if you carry it still further on, the right of the State to make

rates, you want to carry it one step still further and say that if a company is admitted to do business in the State, it has to write the business at that rate, and have no objection about it, and that brings about an impossible situation. You can lead the donkey to the water but you cannot make him drink. I mean, one step follows another in logical sequence, and beyond that again, if you take up that line, you have got State insurance, and, as I think I expressed this morning, Mr. Chairman, the State cannot undertake to guarantee New York city from conflagration. Shall I go on?

Q. Yes, if you please. A. If a classification is deemed needful, it should call upon the companies to supply figures as to the loss cost on the respective classes for the use of the rating organizations. After all, the essential thing is the rate at which any class of business burns. If it is cotton mills, what rate per thousand dollars or per million dollars they burn. That is the essential point. Similarly with dwellings, and if the State takes up the question of classification, I think it should be to require the companies, upon a standard classification, to furnish to the rating organizations the rate at which the several classes of risk burn.

Q. Oh, I did not see what you were getting at at first. As I have understood the classification up to date, what we have been talking about here is a report of the results expressed in premium income, and disbursements for expenses, and disbursements for losses divided up into classes in the way you have described. Now, I understand you to recommend that if anything is to be done in that line, that it be done differently; that instead the companies report ratios? A. The rate of burning to the class of risk. That is the only thing that affects the rate. That is the only thing that affects a rate.

Q. Well, can you illustrate that so we can get that clear? A. Yes. Supposing that the rates upon cotton mills have been one per cent for a series of ten years, and the results show an abnormal profit, and a cut is made down to 50 cents. Well, obviously, the past classification of premiums to losses will not show what the future is going to be, but if your classification was that for every thousand dollars at risk there had been a loss every year of 33 cents, that never varies — the rate of burning — the rate of premium goes up and down, but the rate of burning to value is the fixed quantity, don't you see?

Q. I think I should say, for Professor Whitney's sake, that that feature was included in the ideas of classification we had. In other words, you are seeking to get at the mortality, so to speak, of the business? A. Yes, that is it. It is the basis of the mortality table, and the basis of premium to losses is of no account. If anything is of account it is the rate at which a given class of business will burn, and that is what we call the loss cost. I just wanted to make that point.

I did not emphasize the building code this morning. I think when you put the question to me, Judge, as to what would reduce the loss cost, I think efficient building codes. If you are building for the future, if it is not the immediate question of to-morrow or the next two years or five years, there is nothing so essential as the State endorsement of a State Building Code, so far it shall apply to certain broad questions, because the rate of burning affects the premium rate in a city as well as in the country, if it is on the country risk.

Out of all the premiums we have to pay all the losses, and if the premiums in the country village — if the rate of burning is exceptionally high, that has got to come out of the common fund.

Now, every municipality should have a building code that is brought up to the latest knowledge of fire-proof prevention, and beyond that I think it is within the scope of the State to have a building code that shall put out certain broad principles that shall not be violated. That would tend to reduce the fire cost.

Another thing that I did not lay stress on, was with regard to the fire marshal, position and duties. Every State should have a fire marshal, and every municipality of any importance should either have an assistant marshal, or a marshal for itself.

Now, I happend to be chairman of a committee on the origin of fires in the New York Board of Fire Underwriters. I know that the operation of the City Fire Marshal's office for many years past has been very perfunctory. If there was to be a serious effort to reduce the fire waste, I think that every fire, large or small, should be reported upon a card form, whether suspicious or not. Every fire of importance should be a matter of investigation as to cause, and what were the conditions that produced that fire. Every fire of suspicious character should be made a matter of State

importance to hunt down, and to arrive at the man who is responsible, for the insurance companies will never do it. The State only can do it. In other words, unless the insurance companies can catch a man, with witnesses, with the torch in his hand, that is doing the business, the insurance companies do not endeavor to convict for arson and get turned down every time, but the State should regard the crime of arson as involving danger to life as well as property, in the most serious light. And the fire marshal's office should be equipped with full power to carry out those police duties. All those are on the line of things to lower the fire cost and co-incidentally to lower the rate of premium.

Q. Do they have fire marshals in Great Britain? A. Yes, sir. That is to say, they have the equivalent, and every fire, of any suspicious origin at all, is pursued right through to the end, and it is taken up by the municipal or State authorities and the punishment is reasonably certain, and is severe.

By Assemblyman Foley:

Q. Does your committee make investigations, the Board of Underwriters? A. We did some years ago, but we found that it was very difficult to get support, and the attitude of insurance companies in making investigations and in endeavoring to get criminal convictions is not understood, and for that reason for a number of years my committee has had to take a sort of back ground. Fire Marshal Seary, who was in office here in Manhattan for a good many years, was not a gentleman who lent himself to very active service along that line. He is not in office now. If commissions are to be the subject of legislation they should cover the brokerage as well as the agents' compensation, but it would seem only fair to say, Mr. Chairman, that if you are to restrict commissions absolutely on a common basis which the company shall pay you will probably put a good many of the smaller companies out of existence. Now, that I think the larger companies would rather welcome than otherwise, a regulated commission law; I do not think they would oppose it. I think they would rather welcome it; but it seems only fair to say, looking at both sides of it, that if you absolutely confine the small companies to the same rate of compensation as the large companies,

that nine times out of ten you will find that policy holders, a policy holder is going to pick his company; as you just heard a gentleman on the stand a few minutes ago say, and if the inducement to the agent to get a little extra commission is withdrawn, I am afraid it is going to be pretty hard upon the small companies. It does not concern me, but I put it as a matter of fairness. If you intend to recommend a rebate law it seems to me it should include the receiver as well as the payer of rebate. Even then I do not think you are going to make much good out of it. If it is a matter of rate regulation. I have already dwelt on that — the least obstructive form would be some kind of a court of appeal. I have already dwelt on that. If the mutual companies are admitted they should be on the same basis as stock companies of other States or countries. I do not think the stock companies would raise any opposition to it at all, provided that the same general conditions are imposed upon them as upon us. If the co-insurance clause which has been mentioned very much in the evidence is to be a subject of legislation, I would suggest that the Committee should consider it in the light of what it really is in its essential principle: First, as an equalizer of assessment, that is its one function, and secondly, as a reduced rate clause. In the State of New Jersey, for instance, it is provided by the Legislature under that very term of the reduced rate clause, the rate is so much. Now then, a man can have a reduced rate by the application of the co-insurance clause, otherwise the clause is illegal in the State of New Jersey. Fundamentally the co-insurance principle is as old as insurance itself. It is essential in the marine contract. It was taken from the Marine contract into the fire contract, and in a large proportion of the policies covering property all over the world it is printed in as one of the essential conditions, not eighty per cent, but 100 per cent, and as I say the two essential ideas are, first, the equalization of the assessment, and, secondly, as a reduced rate clause. I don't know that I have anything further to add, Mr. Chairman, but I just wanted to make those points clear.

By Judge BRUCE:

Q. What do you think of the Michigan law where it requires that it be applied for in writing by the assured? A. The only

point about that, Judge, is that there is so much ignorance and misconception. A man hasn't the faintest notion in the world when he sees it on his policy what it is, that if you challenge his attention in that way you put him on notice beforehand and do not change the inherent fairness of the clause; it is inherently fair; it is fair between man and man. You get two buildings side by side, identical in character, and one man carries $10,000 insurance and the other carries $4.000. In a city like New York, then, the ten thousand dollar man is paying his full quota, and the four thousand dollar man is beating his colleagues in the business.

Q. And he is contributing the full quota to the general loss? A. To the general loss; and the other fellow is getting an unfair advantage. It is an equalizer in that respect. Now, the Michigan law just challenges attention and puts the man on guard, puts him on notice.

Q. Disarms him of complaint afterwards when he comes to settle a loss if he has one, that he could say I did not know it was there, and if it was there he did not understand it, because he has to state in this application that he not only knows the clause, but understands it? A. I think you know that a thing of that sort would be covered by printing permanently on the face of the policy: Your attention is specifically called to the co-insurance clause and its effect endorsed hereon, something of that sort, so that he could not plead afterwards he was ignorant about it. I quite admit there is a point in that because a great many people, including thousands of agents, have not the remotest idea in the world what the co-insurance clause means.

Q. And cannot explain it to the policyholder? A. He cannot; and that is true of some company offices too.

Chairman Merritt: I am not surprised at that. I did not understand it. I don't know as I do now.

A. (Continuing) There is a large insurance agent in the city of Syracuse who wrote out to me about a big set of fireproof buildings up there that belonged to the county. He says, those buildings don't require the co-insurance clause, they are fireproof, and you cannot burn them if you try. Of course, those are identically the buildings that do require the co-insurance

clause, and the frame shanty does not. That is an insurance agent who for forty years has been representing a great many insurance companies.

By Mr. Hurrell:

Q. What is the custom as to the co-insurance clause on the continent generally? A. I think it is practiced generally; it is printed in the policy.

Q. The full 100 per cent? A. Yes, sir; and speaking of the continent and speaking of the co-insurance suggests an interesting point that in some of the continental countries, France for instance, the contract itself is a dual contract; it is not a unilateral contract. In other words, the policy is made in duplicate. On ordinary insurance it runs for ten years subject to yearly renewal by the yearly payment of premiums, and the policy is made in duplicate; it is signed by the assured and signed by the company; the company keeps one copy, the assured the other, and it is a double contract. Of course in this country and in Great Britain it is the contract of the company signed only by the company, and puts the thing on a little different basis.

Q. Does your company operate in France? A. Only by way of re-insurance.

Q. Do most of the British companies operate in France? A. By way of re-insurance.

Q. Only? A. Most of them. There are a few that do business direct there, but the French are very clannish, very conservative. In Germany it is more equally divided. The same is true in Italy and Spain, and some of the other countries. Australia. In Russia the law prohibits foreign companies from doing business direct; it has to be all done by re-insurance of the domestic companies.

By Mr. Hurrell:

Q. Is there anything outside of what you have already mentioned, Mr. Lock, that in continental practice of insurance you think could be transplanted to this country successfully? You spoke this morning of some laws which seem to be all right in

theory. Take the Code Napoleon, for instance; it would be resented by citizens if it was put in operation in this country? A. I do not think you could ever get the Code Napoleon upon an Anglo-Saxon community; they would not stand for it. It is admirable as regards its effects, but I do not think they would stand for it; and it is a waste of time to discuss it for that reason, but it is always open to have the public conscience awakened to the evil of fire producing causes and to the effect of fire when it is produced. Now, there has been almost utter lethargy with regard to that in this country, and I think that State legislation directed towards a more searching investigation of fires, and if you will go further where there is a question of dispute, serve notice upon the insurance companies that they are not to pay that loss until the State releases them to pay it; I think it would be an exceedingly good thing. As it is, the companies now tumble over each other to pay losses, and it needs to be something very rank that we hold up on, but if it developed that there were suspicious circumstances, serve notice upon us that we were not to pay it until it is satisfactory to the State officials, I think it would help, because a large number of these losses are by men that want to get their money quick and clean it up and perhaps move off to some other locality.

Q. You have suggested that a fire marshal should investigate every fire. Would you go to the length of recommending that every fire should be reported by the person who had it even though he got it out before the fire department arrived? A. I would suggest that every fire should be compulsorily reported to the proper State or municipal authority, with all the circumstances, and then let the fire marshal, or whoever he be, take up and investigate those that are of importance either from suspicious circumstances or by the importance of the property involved, or the peculiar circumstances, so that the community at large could have the result of the education.

By Chairman Merritt:

Q. The companies pay a two per cent tax in this State to volunteer fire departments? A. Yes.

Q. I am a volunteer fireman; I know about that? A. Yes.

Q. I thought sometimes it would be an unfair thing if that was to continue. I do not know how it originated, but I suppose the theory of it was that that contribution would help to make the department efficient, that it would not be an unfair thing to compel the department in consideration of the receipt of that money to maintain in the municipal division where they got the funds something that would answer to an inspection, and to report to the State Superintendent the causes of fires, and information of that sort, it would not be a very severe tax on them; I know it would not in the case of the company that I am connected with, and it would be something of value possibly as a consideration for the money; otherwise than that it is rather difficult to see just what benefit it is except in a collateral political way, where these well organized bodies are able to reach very effectively men in the Legislature? A. For the same reason, Mr. Chairman, is it not probable that turning it over for the use of the investigation of fires would a little interfere with the present use of money, whatever it is; what becomes of it after it leaves us, I do not know.

By Assemblyman Foley:

Q. Wouldn't you get the same complaint that you have in New York?

Chairman Merritt: You would get it more or less, yes.

A. What on earth that is assessed for, I do not know. It amounts to this. In your town of Potsdam, there are two men, one insures his property and the other concludes he will carry his own risk. Both are under the protection of the fire department. The man that pays a premium to us, and voluntarily incurs that tax, is further compelled by the State to pay an additional tax for the benefit of the fellow that lives next door, who gets just as much assistance from the fire department as the one that is insured. Why should you discriminate in that way? We do not draw that two per cent tax out of our stockholders, we draw it out of our premium payers; and the man that pays the premiums pays for himself and for the fellow next door that does not pay any premium, and both get an equal benefit from the fire department. I never saw any logic in that. I could

understand on Maiden lane, for instance, jewelers that you would assess them their two per cent tax so to support the police department, because they got the benefit of the police protection, but even that would not equal what I am saying. What I am saying is that the thrifty, careful, prudent man that pays a fire insurance premium is taxed for the fellow that does not pay the premium, and both get an equal benefit from the fire department.

By Mr. Hurrell:

Q. Is this a part of your classification, the way you keep your losses (showing card)? A. It is, sir.

Q. Have you any objection to having that entered on the record as an exhibit? A. No, no objection. It shows the system that we adopt in our office.

Mr. Hurrell: I ask that this classification card be marked as an exhibit, Mr. Chairman.

Received and marked Exhibit M 1.

A. (Continuing) This is just one of the ordinary classification cards that we use in our office in the ordinary course of our business.

By Judge Bruce:

Q. Speaking now of your own company? A. Yes. All the business that comes into my office, copies of the policies from the agents, are marked by the examiner with the number of the class; this happens to be Class 65, that is in my hand. Every class has a number, and the ruling is the year written the number of the risks of that class, the sum insured in the aggregate.

Q. Of all companies? A. No; this is my company alone; the sum insured of that class. For instance, this $4,583,065 — the net premiums received upon that class, $63,039; the losses paid $30,427. That is brick. Then the same thing for the frame of that class, 1,059 in number, $804,929 in amount; $15,637 in premiums. The losses incurred upon that class 4,659. That shows the total of brick and frame in the next series. Then there is worked out the following ratios, the loss ratio of losses to premium, the average amount of each policy; the rate of premium that we

receive average upon the amount insured, and the number of cents per hundred of dollars insured; for instance, this class shows that we lost 65 cents for every hundred dollars insured, and we received a premium of $1.46 for every hundred dollars insured, as that particular class. That is our system with all the classes.

Q. How many classes have you.? A. About 130.

Q. And that number of classes would vary with the individual company? A. Up to twelve hundred of the Continental.

Mr. Hurrell: Is there anything further, Mr. Chairman?

Chairman Merritt: Nothing further.

Cornelius Eldert, called as a witness, being duly sworn, testified as follows:

By Judge Bruce:

Q. Where do you live, Mr. Eldert? A. At 286 Lafayette avenue, Brooklyn.

Q. And your business? A. Marine insurance.

Q. And with what company are you connected? A. The Atlantic Mutual.

Q. And that is the largest company doing business in New York city? A. Yes, I believe it is.

Q. We are not investigating the question of marine insurance, but in view of the fact that several witnesses, in tracing the history of fire insurance, have stated that it was the outgrowth of marine insurance, it has occurred to the Committee that possibly being versed in marine insurance you might be able to throw some light on the general subject of insurance, and therefore we have requested that you come before the Committee. Now, how many marine insurance companies are doing business in this territory? A. Well, I should suppose perhaps half a dozen.

Q. Are they domestic or foreign companies? A. Mostly foreign.

Q. Are there any domestic companies other than your own? A. Yes; there are three domestic companies having agencies here, but we are the only resident domestic company.

Q. Will you tell us something in regard to the origin of marine insurance? A. Well, the origin of marine insurance dated back for centuries; the exact date I do not recall, but it is a very ancient

practice, and I think it arose out of the desire for protection against buccaneers and pirates and so on in the Mediterranean originally, insuring against them, and from that outset other risks have been added that are covered by the policies, and it even includes fire.

Q. Have you a standard form of policy? A. We have the old form of policy, but it is very much modified by other companies, but we retain the old form of policy which might be called a standard policy; there are various forms.

Q. Now, in marine insurance have you such a thing as what is called the co-insurance clause? A. We have not a clause that is known in that form, but we have the valued policy, which is the usual form of marine insurance, and that would make the assured a co-insurer if he were not fully insured according to the valuation placed in the policy.

Q. And has that always been in your form of policy, or is it of recept adoption, the valued clause? A. So far as I know it has been the rule. I think in former times that it was not always inserted in marine policies, but now it is almost universal to have the valuation in there; I am speaking of the valuation of the vessel policy.

Q. Do you find that that operates to increase the moral hazard? A. No, I do not think it does; I should not say that it did. I have not any knowledge or any experience that it has.

Q. Have marine underwriters in your observation felt that it had a tendency to increase the moral hazard? A. No, I think not.

Q. I presume almost all of the risks which are written in marine insurance, there is a survey of the risk before the valuation is written, that is, you know pretty well the character of the vessel? A. The character of the vessel — if the vessel were here where we are located we would be very likely to have a survey of it, but otherwise we take the character of the vessel from reliable sources.

Q. Then there is a record somewhere amounting to a survey of merely every vessel afloat, is there not? A. There is a report of practically every vessel, yes, sir.

Q. Consequently the making of an actual survey is not necessary as it would be in fire insurance in case the value of the property was to be fixed before the policy is written? A. No, sir.

Q. And consequently in marine insurance the insertion of a valued policy covenant really amounts to an agreement between the insurer and the assured as to what the liquidated damages shall be in the event of a total loss? A. Yes, that fixed the value.

Q. Now, you say you have no such thing as a co-insurance clause, that is that they must carry a certain percentage of insurance in order to recover in the event of a partial loss? A. No, I do not recall such a clause in marine insurance.

Q. Now, how are the rates in marine insurance fixed? A. It is a matter of judgment.

Q. Is there any association of marine insurance companies which makes rates? A. No.

Q. They all act independently? A. Yes, sir.

Q. There is, then, open competition between the companies? A. Yes, sir.

Q. Has there ever been an attempt made here in our own country to form an organization of marine companies for the purpose of making and regulating rates? A. No.

Q. Do the companies, as a rule, observe some uniform rate? A. No, they do not observe a uniform rate, but competition brings them pretty close together. We are in strong competition in the marine line, and, of course, the risks are placed where they are deemed most advantageous to the assured, and so it brings the underwriters rather close together in rates if they do the business. If an underwriter holds his rates up he is not liable to get into that line of business.

Q. Are the companies writing marine insurance all stock companies? A. No; we are a mutual company.

Q. Mutual? A. Yes, sir.

Q. Mutual to what extent? A. In the dividing of the profits with the assured; they revert to the assured.

Q. And then you are purely a mutual? A. Yes.

Q. Are the most of the other companies doing business in this territory mutual companies? A. I know of none other.

Q. You are the only mutual company? A. Yes, sir.

Q. How do your rates compare with the rates of the stock companies? A. Well, they are naturally higher. I do not know just how they do compare.

Q. Do you know how they compare in regard to net rates to the assured after you have returned the dividend? A. No, I cannot say just how they do compare.

Q. Are you like the miscellaneous Mutual Fire Insurance companies in New England; that is, you assess a premium that you deem to be far in advance of what the probable loss would be, and then at stated intervals figure up the loss and return a dividend? A. Yes; we make the dividend annually.

Q. How are these marine policies written as a rule, to cover voyages or to cover stated periods? A. Either way, as desired by the assured.

Q. And most of them are how written? A. Mostly on time with vessels; of course, cargoes there are on the voyage.

Q. Have you two classes, known as agents and brokers in marine insurance? A. I presume there are; yes, there are two classes, agents and brokers. The agent is the man who devotes his time to the business of a particular company in that locality; the broker is a man who gets business and places it where he can most advantageously.

Q. The agent represents the company, and the broker the assured? A. Yes.

Q. Do you have an association of brokers? A. No, not that I know of; I am not a broker.

Q. I am speaking of in the business, of course? A. No, I know of none.

Q. Then there is no body from which a broker must hold a certificate or license? A. No.

Q. The field is open, I presume, for any person to enter it? A. As far as I know.

By Chairman MERRITT:

Q. Against what hazards do you insure? A. Against marine perils generally and also fire.

Q. Ship and cargo? A. Ship and cargo, and freights.

Q. Separate policies on the two? A. Separate on the two; yes. They are generally owned by different people, and the interests are different.

Q. Not carrying necessarily the same rate of insurance? A. No.

Q. Depending upon the character of cargo, I presume? A. Depending upon the character of the cargo, and the condition of the insurance.

Q. Do you have much consideration to give to the moral hazard in connection with insurance of vessels? A. That is considered, I suppose; yes, that would be considered.

By Judge BRUCE:

Q. You have an average clause in your policies, do you not? A. Yes, we have an average clause, providing that the average shall amount to a certain percentage.

Q. That is in effect about the same as the co-insurance clause in a fire insurance policy, is it not? A. No, it is different.

Q. Will you explain that difference? A. From what I understand the insurance clause to be, the average clause provides that the average or loss shall amount to a certain per cent in order to make a claim under the policy; the co-insurance clause, as I understand it, I do not know very much about it, provides that a certain proportion of the property shall be insured in order to entitle the holder of the policy to claim the full loss in case of loss.

Q. In the event of partial loss? A. In the case of partial loss; yes, sir.

Q. Now, how does your clause operate; I do not quite understand it? A. Our clause does not operate upon that point at all; simply if a loss does not amount to the prescribed average he has no claim under the policy, the holder of the policy has no claim.

Q. And he gets nothing at all? A. And gets nothing at all, and if it amounts to the prescribed average he gets his full loss providing — according to his insurance.

Q. Now, is there any fixed average? A. No, it varies; in a vessel five per cent is the clause generally, the loss must amount to five per cent; but it is varied, by agreement, and these days on a large, valuable vessel the average is expressed in much lower terms, generally in dollars and cents.

Q. And if it does amount to five per cent, assuming that was the clause? A. Yes.

Q. Then he gets his entire loss, does he? A. He gets his entire loss, yes; that is, the proportion that is covered by that policy.

Q. And does that clause also apply to marine insurance on cargoes? A. The same principle; yes, sir.

By Mr. HURRELL:

Q. Marine companies have power, have they not, to insure a cargo from the interior against all the risks of transportation, including fire? A. They have.

Q. From the seaboard across the ocean? A. Yes, sir, they have.

Q. So that very often it happens that a marine company is transacting a considerable fire business on land? A. Incidental to the transportation; yes.

By Chairman MERRITT:

Q. On merchandise, you mean? A. On merchandise.

By Mr. HURRELL:

Q. If a marine policy is issued on a cargo in the interior, that covers while the cargo is in warehouse, does it not? A. No, it would not, ordinarily; it covers while in transportation, not while in warehouse.

Q. What I meant to get at is the fact that if a common carrier has taken the goods there in transit, but not a common carrier's warehouse, the marine policy rests there as fire protection, does it not? A. It would if the common carrier puts it in the warehouse, but if it is taken from him by the assured it might be different; it probably would.

Q. In other words, no matter what the stages of it are, while in transportation the marine company is competent and does issue fire insurance upon the property as an incident to its policies? A. It issues a transportation policy, which includes fire.

Q. And in putting by its reserve in New York State it observes the same rules that apply to fire companies, does it not? A. By reserving the unearned premiums; yes.

Q. It has that advantage? A. We do that whatever the character of the insurance is; until the premiums are earned we have to reserve them.

Q. I did not quite understand what determined the average that

was to apply after a loss. Does the average clause mean there must be a loss of a maximum amount before the insurance attaches? A. There must be a loss of a minimum amount; the least loss that can be collected is that expressed by the average, five per cent, three per cent, or it might be expressed in the case of a vessel by dollars and cents. Five per cent on one of these large vessels would be a very large loss.

Q. That is stipulated in the policy, is it? A. It is stipulated in the policy.

Q. What is known by the term general average? A. General average is an average or loss that is incurred for the general benefit, voluntary, a sacrifice, and that is apportioned over all the interests, vessel, freight and cargo, and it is done to preserve the common interests from peril.

By Chairman MERRITT:

Q. How would that happen, in the case of throwing overboard a part of the cargo? A. In case of a vessel in distress, they might cut away the masts, or jettison part of the cargo, or they might incur expense in going into a port of refuge for repairs; that would be general average.

By Mr. HURRELL:

Q. What is the custom with regard to the division of the insurance. Your company would not take the entire insurance on a vessel, would it, and cover the whole ship? A. No, it would not on these modern vessels, and it is not customary to insure a vessel that way; they divide it — in old times with a low-priced vessel it might not be unusual, although generally it is the other way. A vessel is divided into ownership, different owners, and each owner can insure his own interest or not, as he wishes. Of course, when you come to a steamship company, where there is only one owner, there the case might be different, although in these modern vessels you would not find an underwriter who would take the entire risk.

Q. How do you ascertain the total amount of insurance on the vessel? A. We do not. We do not concern ourselves with it.

Q. Don't you know when you take a risk on a vessel how much other insurance there is? A. No, not exactly. We might know.

They might tell us; but it would not be very important. The valuation of the vessel determines that. We fix a valuation and we insure whatever proportion of that valuation is agreed upon between the owners and ourselves. Whether they have the balance of it insured or not need not concern us.

Q. I should think it would concern you as to whether they had an over-insurance in total? A. If we agree upon a valuation, if they had an over-insurance it would not concern us. When we came to a loss we should require them to show what insurance they had.

Q. So that the question of the total insurance would arise the moment there was a claim for a loss? A. Yes, sir.

Q. And you do not care up to that point? A. Up to that point it don't concern us.

By Judge Bruce:

Q. Why do you have this minimum average of five per cent? A. The intention is to shut out small claims which are continually arising in transportation, so as not to encumber the office with work of adjusting small claims, and also to be free of trivial losses. The intention is to cover a serious loss rather than a small one.

John L. Train, called as a witness, being duly sworn, testified as follows:

By Mr. Hurrell:

Q. What is your business, Mr. Train? A. Examiner in the New York State Insurance Department.

Q. How long have you been in that department? A. Five years.

Q. General examiner? A. Two years as clerk and three years as an examiner.

Q. You have examined different lines of different kinds of insurance companies? A. I have.

Q. The Committee is interested, Mr. Train, in having on its record a statement of the different kinds of insurance companies doing fire insurance business in this State, and I want you, if you

will, to describe the county and town co-operative fire insurance companies? A. The town companies were the earliest form of co-operative fire insurance companes; they were organized first under special acts of the Legislature; they started about 1836; and in 1857 a law was passed which permitted the organization of town companies. They were called town companies because the district in which they could write business was limited to townships. This law was repealed in 1862, and in 1879 another law was passed which permitted the organization of town companies and county companies. County companies were authorized to write business only in counties; and this law was amended from that date until the present, so that the number of counties was gradually extended from one to a number, which was represented by the amount of insurance in force, so that before the passage of the last act in 1907 the largest company was allowed to do business in twenty-seven counties.

Q. Now, how did the various companies do business? A. The town companies almost universally had one system, and that was to charge a policy, or serve a fee at the time the policy was taken out, and then, at the end of the year of which a loss occurred, a general assessment was levied on all the policyholders, to pay all losses and expenses up to that date. The county companies followed the same procedure until 1886, when one company in Catskill started to charge a premium advance, which they estimated was to pay the entire cost of the insurance. That was the beginning of the advance premium association, and they have, in 1909, there were forty companies doing business on the advance premium plan, and 110 doing business on the association plan.

Q. Now, these were all mutual companies? A. All absolutely mutual.

Q. Did the companies doing business that way, upon the advance premium plan, return to their policyholders a dividend if they had over-collected? A. No, they have never returned any dividend.

Q. Do you know whether that was by accident or design? A. Well, it was probably by design, and the fact that from their experience they were not absolutely sure the advance premium would pay the cost of insurance, and they wanted to accumulate a surplus to do that.

Q. And they did accumulate, in some instances, a surplus? A. Yes, and they collected a very considerable surplus.

Q. You have spoken of advance premium association; was there any other kind? A. No, not generally speaking. We only now divide them into two classes, assessment and advance premium associations. Some associations charge a small premium in advance, in addition to the policy, or survey fee; and that is in all cases expected to pay the entire cost of insurance.

Q. And in those companies there was an additional assessment? A. The policyholder always understood he was expected to pay an additional assessment, which could be levied upon him.

Q. In all those companies it is a fact, is it not, that the liability of each insured was unlimited? A. The liability of each policyholder is unlimited, and he is liable for assessments to pay all losses and expenses.

Q. So he has not only got an insurance policy, but also a contract to pay somebody else? A. Yes, sir.

Q. And he does not know the extent of it? A. No.

Q. The law was amended, affecting these companies, this year, 1910, was it not? A. Yes.

Q. Previous to this year, both the advance premium companies and the assessment companies, were entirely without supervision, were they not? A. They were, as far as our department was concerned, the Insurance Department.

Q. And you made an examination of each company, did you not, last year? A. I made an examination of all the companies in which the advanced premiums were estimated to pay the entire cost of insurance, and we require all the other companies, commonly called the assessment companies, to make a report to us upon a blank furnished by us.

Q. And did you audit and check up those reports when they were received. A. Yes, those reports were all checked and audited when received.

Q. Upon what class of property do these companies insure? A. The town and county assessment companies practically limit their lines of insurance to dwellings and farm property. One class of county company, called the Grange companies, limit their insurance to property owned by members of the New York State Grange,

and that was exclusively foreign property. The town companies wrote residences and dwelling houses. The advance premium companies were writing every class of business.

Q. In cities as well as small localities? A. Yes, sir; but the law prohibits their doing business in cities having a population of over 600,000.

Q. Now, generally speaking, what condition were these companies in? A. Generally speaking, the advance premium companies were found to be in good condition. In a few cases it was found that the management had used a good part of the premiums for expenses, and consequently became involved, and had to levy large assessments on the policyholders. Eight of these are now being liquidated by the department, and assessments amounting to 430 per cent and 166 per cent of the premiums are now being levied on the policyholders to pay losses and expenses.

Q. That is, you are speaking of the seven companies in the hands of the department at Syracuse? A. Seven of Syracuse and one in Rochester.

Q. Were those companies advance premium companies? A. Yes, these were all advance premium companies.

Q. There is no difference as to the liability of an assessment being levied, between an advance premium company and an assessment company, when a loss occurs, is there? A. No, it is just the same.

Q. How many of these companies are there in the State, do you know? A. There are about 150, including both the assessment and advance premium associations; and there are about 40 advance premium associations.

Q. Do you know whether the legislation which was enacted at the last session was welcomed by those companies; whether it was their legislation, or whether the department proposed it? A. I think the legislation was satisfactory to the companies.

Q. It was, as a matter of fact, a matter of agreement between the Insurance Department and the companies, that the law as passed was negotiated before its introduction, was it not? A. Yes, it was the result of consultation between representatives of the companies and the Insurance Department.

Q. Now, what are the standards of solvency set up, generally

speaking, by the law of 1910? A. The law of 1910 places their standard of solvency on practically the same basis upon which the standard of solvency is applied to a stock company; except that, instead of carrying the full unearned premium liability, they are only compelled to carry 80 per cent of unearned premium liability, which a stock company is compelled to carry.

Q. Does that requirement, that each of these companies have a fund equal to 80 per cent of the unearned premiums, does that apply only to advance premium companies? A. That applies only to advance premium companies.

Q. What standard of solvency, if any, is there for those that might be termed pure assessment companies? A. There is no standard of solvency, of course, except that the assets must exceed the liabilities.

Q. That simply means whenever there is a loss they have immediately got to levy an assessment and collect it? A. Yes, sir.

Q. And if they cannot do that, then they are insolvent? A. That is the only standard.

Q. Then, what happens to the company is, it passes into the hands of the department, and probably an assessment large enough to cover the deficiency is levied, and that is collected, or suit is brought? A. That is the procedure.

Q. My only purpose was to put these companies on the record. I have asked you generally. Is there anything you think of in connection with those companies that is worthy of special mention, so the Committee can apprehend exactly what they are, and what they are doing? A. The town and county associations transact business in limited territories, covering property over which the secretary or their underwriters can have close observation; and it is for that reason they consider they can write at a lower rate than a stock company. That is, they can closely inspect every risk which they cover.

By Chairman Merritt:

Q. Does that turn out to be so? A. It has been so in practice.

Q. Or is it because of the fact that they do not have to retain so expensive a staff of officers? A. It can be applied to both. For both reasons they have been able to maintain a lower rate. In the

advance premium companies the rate of expense has been between 20 and 50 per cent, and under the law which takes effect the first of January, 1911, the expense ratio is limited to 35 per cent of the premium income; and that can be increased to 45 per cent by permission of the Superintendent of Insurance. The advance premium companies have made a rate, an average rate of about 75 per cent of the board rate. They have the board rates, and fix their rates on all property upon it. They write the business at about 75 per cent of the board rate. And a number of them have been able with that rate to accumulate a considerable surplus.

Q. I suppose they can ascertain that rate by having the proposed risk examined, and find out what a stock company will insure it for, and then make up their minds how much they will take it at? A. I find in most cases they have the regular schedule of rates which has been adopted by board companies. Then they use that rate, and take 75 per cent of that, and write the risk for that amount.

Q. Do they pay anything for that schedule? A. They get it in various ways. I believe they do pay for it; certain people.

By Mr. HURRELL:

Q. You never put them under oath to find out how they did that? A. No.

Q. Do they pay taxes at all? A. They pay no taxes on their premiums.

Q. They are altogether exempt? A. They are exempt.

Q. They are not exempt from the cost of examination, are they? A. No, not under the new law; no.

Q. Now, besides issuing this policy upon which they may assess for a loss, the policy contains other conditions, does it not, than the standard policy of the State? A. Yes, they have conditions on the back of the policy that require the policyholder to observe certain conditions.

Q. That is to say, they can, to protect themselves, can penalize, and do; with these various conditions, in any variety of ways that occur to their directors, to restrict the operation of their policy; isn't that true? A. That is true; but I do not believe they observe that very strictly in the companies of the advance premium associa-

tion. That would apply more to the assessment association than to the regular advance premium associations. The advance premium associations do business practically the same as the stock companies, as far as their method is concerned.

Q. Do you know whether their policy contains the by-laws of the company? A. They are compelled to make the by-laws a condition of the policy, and print them on the back of the policy.

Q. Well, it is possible, subject to the approval of the Insurance Department, for a little local company to issue insurance, and then put into its policy such conditions as will penalize, say, a very careless man? A. It is; yes, sir.

Q. Concretely, for instance, isn't this true, in some of these foreign association policies, that if a man takes a lantern into a hay mow he may lose his insurance; that may be prohibited right in the policy? A. That is true; yes, sir.

Q. Is there anything else you want to say on the subject of these companies, without going into the details of the operation? A. Well, excepting the case of the advance premium association, 25 of them have formed an association which they call the "Five County Association." In this association the rates are to be the same, and they do business on the same basis. They write the same class of risks, and at the end of the year they classify all their risks, as to premium income, and as to losses, and these statistics are furnished to the central body. Then if they find on any one class they are losing money, the rate can be raised, and if they are making more than they think is justified, they can lower it.

Q. Is there any other form of insurance company that you know of doing a fire insurance business, that combine their experience, and figure anything from it? A. Do you mean the life insurance companies?

Q. Strike that question out. In other words, these fire insurance companies of that class figure with each other and tell each other what their experience has been, to determine what rates ought to be? A. That is true.

Chairman MERRITT: They are not competitors in each others' territory, are they?

The WITNESS: Not those 25, no, sir.

Q. Mr. Train, leaving that subject, will you state, please, under

what authority you and other examiners in the department make examinations of these companies? A. We make examinations under the authority of the Superintendent of Insurance.

Q. And do you recall what particular section of law applies to the examiners, as to what their powers may be? A. Section 39, I believe.

Q. And in making an examination, you are substantially a deputy of the Superintendent of Insurance, are you not? A. Yes, sir.

Q. You are supposed in theory to be the Superintendent, examining? A. Yes.

By Chairman MERRITT:

Q. Do you present any form of credentials when you go to the office of a company? A. Yes, we have an appointment, signed by the Superintendent, for the examination, to make the examination, and make a report to the Superintendent upon the condition of the affairs of the company.

Q. You file that with the company? A. No, the appointment is filed with the report, which is filed in the Insurance Department.

Q. I wondered if you had any evidence of your authority from the Superintendent when you appeared at the office of a company, and said, "I have come to examine your company?" A. We always show the officer of the company in charge the appointment.

Mr. HURRELL: And that is an official certificate, signed by the Superintendent?

The WITNESS: It is signed by the Superintendent.

Q. That section of the law, then, gives you access to all books of account, and everything of that sort, and records of every kind? A. Yes.

Q. Can they administer an oath?

Mr. HURRELL: Yes, sir.

Q. Do you, when you start in on an examination, do you, as a rule, put the officer under oath, or do you only resort to that when you suspect something is rather devious, and want to get a record that you can rely on? A. Not unless we find something that is unexplainable, except by putting some officer under oath; something that looks suspicious.

By Mr. Hurrell:

Q. Now, will you describe, Mr. Train, what examiners usually do, and what they look to when examining; take up, briefly, the course of an examination? A. We endeavor, first, to find out whether the company is solvent, and if it has complied with the provisions of the insurance laws applicable to that class of companies.

Chairman Merritt: What does that involve?

The Witness: That involves the ascertaining of all their assets, and ascertaining the liability of the company; and we also check up their different items of income and disbursements, and find out whether any defalcations have taken place; and go into the management of the company to see whether the company is properly managed, and is complying with the different provisions of the insurance law.

Q. You check up, in those companies, where the law has something covering investments, to see that, as to the kind of securities the money is invested in? A. Yes, sir.

Q. And when you have completed your examination, just state what you do with the report? A. When the examination is completed ——

Q. In the first place, you sign and swear to it, the examiner in charge? A. We make a report, then we sign and swear to the report, and the company is allowed a hearing upon that report, and after hearing the report is amended, if necessary, and then placed on file in the Insurance Department.

Q. That is, when the first draft of the report is presented to the company, it is before it is filed? A. Before it is filed.

Q. And if a company disagrees with any of the conclusions of the examiner, or with any statements he has set forth, they ask for a hearing before the Superintendent, and discuss the matter, and produce any contradictory evidence at that hearing? A. Yes, sir.

Q. And the Superintendent then orders any changes, if he finds that any changes are necessary? A. That is the procedure; yes, sir.

Q. After those changes are made, then the report is filed formally as a department record, is it? A. Yes, sir.

Q. Are all the reports of the various companies, reports on the examinations, published in the annual report of the Superintend-

ent? A. They are all published in the annual report of the Superintendent.

By Chairman MERRITT:

Q. What has been the general history of these town and county mutuals, as to their meeting their obligations? A. Generally speaking, they seem to have been very successful, especially applying to the town, grange and county companies. The only difficulty we have ever had, they have had in years, has been applied to the advance premium companies, and there have been comparatively few of those that got into trouble.

Q. Was the trouble due to their not estimating the amount of premiums they would require in case of a conflagration, or what? A. In seven of the companies, it was probably due to the expensive management; and in another company it was due to conflagration. That is, of eight advance premium companies, which are now being liquidated by the department, seven are probably due to the excessive cost of management, and the other was due to conflagration in an unprotected town.

Q. What did they do, pay their staff unreasonable compensation where they did not have the money on hand? A. That seems to be the way the money was dissipated.

By Mr. HURRELL:

Q. And it was a fact, was it not, in those companies where the expense was excessive, the company had spread itself out, so that it was doing business in various business points, through local agents, who cared nothing for the membership? A. That was the real cause, probably, of the final liquidation of the companies.

Chairman MERRITT: What did they do; give great big commissions?

Mr. HURRELL: Yes, they had favorable agency contracts, etc.

Q. You have spoken of the other companies, the assessment companies, that do business on a very much smaller commission; in those cases there is no agency system through which they operate, is there? A. The only agency system which they have is what they call their directors. The directors of the companies examine the risk, and write most of the policies, and they get merely nominal

pay; it is usually a policy fee of a dollar or two dollars, for writing the policy, and there is no commission.

Q. And that is how they keep their expense rate down? A. Yes, the expense ratio is very low in those companies.

Q. Would you say, Mr. Train, that these advance premium companies which do business through many local agents, throughout five or more counties, if they can get in more than five counties, were successful, doing business that way? A. Yes, I would say they were successful.

Q. You would? A. Yes.

Q. So, the seven companies in Syracuse were rather an exception? A. They were an exception. Under the new law when a company has $1,000,000 of insurance in force, by permission of the Superintendent it can extend to any county in the State, and all counties in the State, with the exception of counties which have more than 600,000 inhabitants.

Chairman MERRITT: What is about the aggregate those companies carry?

The WITNESS: In the amount of insurance?

Chairman MERRITT: Yes.

The WITNESS: The aggregate is about $500,000,000 of all the companies.

Chairman MERRITT: In this State?

The WITNESS: In this State.

Q. Do you know whether the officers of these various associations, composed of the various companies, are taking up with the Department of Insurance any specific amendments or not to the section of the law passed last year? A. No, I don't know anything about any amendments.

Q. Have you been out examining these companies recently? A. I examined some in August.

Q. Have you heard any complaint of any kind that needed amendment, that needed amendment of the law to correct? A. More as to the interpretation of the law than as to the fundamental principle.

Q. The new system of supervision is working harmoniously as between the department and themselves? A. Only it was not clear what some of these provisions meant.

Chairman Merritt: What sort of policies do they write; co-insurance policies, valued policies, what is it?

The Witness: They write a straight insurance policy, usually on the standard form.

Q. With the addition of all these by-laws and conditions? A. With the addition the by-laws have to be printed on the policy.

Q. Do you know whether they use the co-insurance clause? A. I suppose they do.

Q. For the most part, their policies are for small amounts? A. Small amounts, usually averaging about $2,000. The maximum that can be written by an assessment company is $7,000, and by an advance premium company is $5,000.

Q. That is limited by the law? A. That is limited by the law which goes into effect January 1st.

Q. You did not come across any valued policies, did you? A. No.

Q. Or that principle? A. No.

Mr. Hurrell: Do you want to ask anything more, Mr. Chairman?

Chairman Merritt: No.

Mr. Hurrell: That is all, Mr. Train.

Chairman Merritt: The Committee will stand adjourned to 11 o'clock Monday morning.

Adjourned to Monday, December 19, 1910, at 11 A. M.

THIRTY-FOURTH PUBLIC SESSION OF THE LEGISLATIVE INVESTIGATING COMMITTEE.

Aldermanic Chamber, City Hall,

New York, *December* 19th, 1910 — 11 A. M.

Present — Hon. Edwin A. Merritt, Jr., *Chairman.*
Hon. Alexander Brough, *Vice-Chairman.*
Hon. Robert F. Wagner.
Hon. William W. Colne.
Hon. James A. Foley.

Hon. M. Linn Bruce, *Counsel.*
Alfred Hurrell, Esq., *Assistant Counsel.*

Chairman Merritt: The Committee will be in order.

Daniel F. Gordon, recalled.

By Mr. Hurrell:

Q. Mr. Gordon, have you secured from the Comptroller and the Department of Insurance the amounts of taxes paid by the fire companies during the last ten years? A. I have procured statements from both departments; the Insurance Department and the State Comptroller's office.

Q. You have those figures with you? A. I have.

Q. Have you got them recapitulated, so that it will not be necessary to go into the figures from year to year? A. I have.

Q. Is that the recapitulation you have? A. This is it.

Q. Will you explain the statement and we will offer it in evidence? A. I have prepared a recapitulation of the figures presented by the Comptroller and combined such recapitulation with the figures presented by the Insurance Department.

Q. Now, what is the difference between the figures kept by the Comptroller and the figures kept by the Insurance Department. Not the difference in the amount, but the difference in principle. What does the Comptroller collect and what does the Insurance Department collect? A. The Comptroller collects on domestic companies a one per cent tax.

Q. (Interrupting) I am not seeking the amount. Do they collect taxes under the Franchise Tax Law? A. Yes; the Franchise Tax Law; under section 187 of the Tax Law. Department taxes are collected under two or three different sections under the Insurance Law.

Q. But under the Insurance Law? A. Under the Insurance Law.

Q. And the department collects some taxes, as you explained, and also collects fees? A. Collects fees also.

Q. For various services done in connection with individual companies? A. Yes.

Q. And you have both of those items here? A. I have the department fees and department taxes and the Comptroller's tax.

Q. And this is for ten years? A. That is for beginning with the year 1900 and to and including the year 1909.

Q. I see that you have fire and marine companies figured in there. Does the Comptroller put the marine companies in, too? A. Yes. I have separated them as best I could from his sheets.

Q. Now, what is the total taxes that have been paid by the fire and marine companies in these ten years to the State of New York? A. The total amount of taxes and fees paid to the Comptroller's office and to the State Insurance Department in the ten years is $4,215,212.08.

Q. That is on the two classes of companies. Now, have you been able to separate those out so as to state the grand total for the fire companies alone? A. Yes.

Q. What is that amount of the fire companies alone? A. The proportion applying to the fire companies is $2,833,053.24, and to the marine companies $1,382,158.84.

Q. And in addition to that —— A. (Interrupting) And estimating the taxes paid by the fire companies, I have included taxes on all the Lloyds associations. In one or two instances they transact the business of marine.

Q. That is where the business is so intermingled that you could not separate it accurately? A. It is hard to separate, and, besides that, the fees collected by the Insurance Department on other State fire and marine companies, of which business there is no separation, but the great proportion of that applies to five companies, so it is not material.

Q. I see. That is there is some marine business in that, too? A. Yes.

Q. But not a great deal? Now, in addition to that you have not been able to secure an accurate statement of the taxes in addition which the foreign companies pay the fire departments in the various counties where they do business, have you? A. No; absolutely impossible for us to obtain that information.

Q. So that in order to get those figures anybody could add to that, to the figures you have given there, indefinite amounts which the companies have paid to fire departments in the various districts where they have done business? A. Yes; that is right; that is a two per cent tax.

Q. Is there any further explanation to give to these figures? A. I think these are included. I have a note here attached to the recapitulation of the Comptroller's sheets. It is a mere matter of correction. It is not very material.

Mr. HURRELL: I offer the entire sheets in evidence.

(The paper so offered and identified was received and marked Exhibit N 1 in evidence.)

Mr. HURRELL: That is all, Mr. Gordon.

JOHN A. ECKERT, called as a witness, being duly sworn, testified as follows:

By Mr. HURRELL:

Q. Your name is John A. Eckert? A. Yes.

Q. What is your business, Mr. Eckert? A. Insurance broker.

Q. Where do you reside? A. Oyster Bay, Long Island.

Q. And where is your office? A. 92 William street, New York.

Q. How long have you been in business? A. 27 years as a fire insurance broker.

Q. As a fire insurance broker? A. Yes, sir.

Q. And you insure risks, I assume, in all companies that are admitted to do business in this State, and in particular in New York city, that are members of the Fire Insurance Exchange? A. I do, sir. My principal business——

Q. (Interrupting) You hold a license certificate from the Fire Insurance Exchange? A. I do; yes, sir.

Q. How long have you held such certificate? A. Ever since the Exchange was formed; 1899, I think.

Q. Under their rules, brokers are not members of the Exchange, are they? A. They are not.

Q. Do you belong to any brokers' association? A. I do.

Q. What is the name of the association? A. Insurance Brokers' Association of New York.

Q. How long do you belong to that organization? A. I should say six or seven years.

Q. How many members has that organization? A. About one hundred.

Q. How many brokers do you understand to be licensed or certificated to do business in New York city? A. Between 7,500 and 8,000.

Q. I assume that the organization you have spoken of is the organization of the largest brokers? A. They are.

Q. Have you any objection to here stating about what your premium income is in your office? A. Close to a million dollars a year.

Q. That means the premiums you pay the companies upon policies that you secure and place with your customers? A. Exactly. I may say that takes in all classes of insurance; plate glass, burglary, liability——

Q. (Interrupting) I was simply developing the size of your interest. What is your firm name? A. John A. Eckert & Company.

Q. You appreciate, Mr. Eckert, that this Commission has been taking testimony upon the subject of fire insurance, pursuant to a resolution of the Legislature of this State, which directed it to go into the subject of the Fire Insurance Exchange, and other rating bodies, as well as into the methods of the fire insurance business? A. Yes, sir.

Q. And the subject of the New York broker has been mentioned several times before the Committee. I wish you would describe to the Committee — I will leave the question open — generally the uses of the New York broker, how he came to be, or how the brokerage developed in New York, and whether, in your opinion, the New York broker is or is not absolutely necessary to the business here? A. Yes, sir. When I first entered the insurance business there were not many brokers.

Q. That was 27 years ago? A. That was 27 years ago, and now, as I have testified, there are about 7,500 or 8,000. I think that increase is due largely to the evolution of business; it was the increase of values; the introduction of, perhaps, technical questions and technical situations. I should say the New York broker is a very important factor. He performs a great service for the assured, and I think he likewise performs a great service for the companies. He must be familiar with the standard form of policy. He must be familiar with the decisions of the courts affecting that standard form of policy. He must have a general knowledge of the insurance business, and be able to effect his insurance consistent with all those conditions. His work is by no means limited to the simply effecting of an application for insurance. I should say that is a very small percentage of his work. In the first place he is important for the reason that he must get the business for the companies, and I venture to say that if it were not for the industry of the broker the income, or the business, of the companies would not be quite as large as it is to-day.

Q. Well, would not the merchants seek that insurance in their own way? A. I question whether they would, in some instances.

Q. Well, then, would not the companies go after that business through their agents? A. They would not. There are many special lines of insurance that are placed now with the companies when their agents, I do not think, are as well equipped to go after as the broker, where insurable interests exist.

Q. That is, you mean, anyway, that there are some lines that the brokers bring in that the companies did not want, if it was left to their own motion? A. That is true, too, but that is not just what I meant. Some special insurable interest that the broker is aware of, or becomes aware of by close communication with his cus-

tomer. He is acting in a professional capacity. May I illustrate one, for instance.

Q. Yes; certainly; go on? A. We will assume a man has a valuable lease, with a fire clause in it. He has built up a business on a certain corner. That business is particularly peculiar to that corner. If that building should burn and that lease should be cancelled by reason of that fire clause, that man might lose a fortune. He might lose his business, and we frequently will insure a leasehold interest, we will say, for $100,000 or more. Now, that is a line of insurance that I should say is fairly profitable to the companies, and I do not know any company with their agents, or with any organization, qualified to go out and hunt up that sort of business.

Q. You mean, then, if I understand you, that the broker is keenest to see that everything is covered by insurance policies that ought to be covered, as a business proposition? A. Yes, sir.

Q. And even brings to the mind of the insured a line of insurance which possibly the insured does not think of by himself? A. Yes, sir. He may be fortunate in another way, if you please, perhaps. If there was insurance that he had not covered. The broker is acting in a professional capacity, and his client may say, "Why didn't you tell me about this." There is a certain element of principle that we employ to inform our clients of every insurable proposition that is available where theer is an insurable interest.

Q. That is to say, you take it that more business flows to the company because of the peculiar trust relation which exists between you and your clients, which puts the burden on the broker of having everything insured that he ought to have insured? A. Yes, or at least advising his client with reference to it. I certainly do.

Q. Proceed, if I have interrupted you? A. The broker, as I stated, he must go out and get this business; I am speaking generally of large lines for the purpose of my argument. After he gets his order he must make a close study of all the conditions surrounding that risk. He must have a technical knowledge to do it. The insurable interest of the owner, if you please, in order to properly insure that man and conform with the printed conditions of the policy. Under present conditions he must look carefully into the rate; that means procuring one of these schedules of the New York Fire Insurance Exchange and analyzing it, analyzing it only as an

expert can do. A large office, in order to do this, must maintain an expensive equipment.

Q. Just before you get into explaining about the equipment, have you a concrete illustration that you can give us, do you think of any buildings now being constructed that you are responsible for as broker that you care to talk about specifically or personally, and to describe how the owner operates with the broker? A. I have one in mind, the New Rector Hotel. As soon as Mr. Rector let his contracts to his contractor the plans and specifications were submitted to our office. An expensive engineer goes over those plans and specifications and spends three or four days, perhaps, studying them, and reports to me, and I, in turn, report to my client. I find many things in those plans and specifications that are at variance with the rules and regulations of the New York Fire Insurance Exchange with reference to his prospective rate ——

Q. Pardon me, you mean by that that you find something in the outline of the architect's plans which would result in having extra charges added to his rate? A. Exactly, that is what I mean. The architects, of course, have not any technical insurance knowledge, and we frequently are obliged, if the contract has been let, after it has been let, to go into consultation with the architects and undo a great many things that they have done, recommend changes in the construction of the building, in the installation of fire appliances, and, I may say in this particular case, the recommendations that we have made perhaps will save our client a couple of thousand dollars a year in the cost of that insurance.

Q. That is, you are speaking of this building? A. I am speaking of this particular case; yes, sir.

Q. Then you take up the whole matter with them and endeavor to have their plans changed so that the net result will be the lowest insurance rate that can be gotten? A. Exactly; and we must advise him of everything, even though he may not ultimately adopt them.

Q. This, of course, the broker does at his own expense? A. Absolutely.

Q. And in order to get the business when the business is written, when the building commences to go up, it is covered by insurance, is it not? A. Yes, sir; that is true.

Q. And his hope of reward lays in the fact that he will have added a client to his office? A. That is all the reward we get.

Q. You do not charge the individual owner anything for all of this work? A. No, sir.

Q. And the individual owner, after the building is up, and he has taken advantage of all your advice on the subject, is free to leave you and place his insurance in any other office? A. Absolutely. The same as any other professional man would. We feel that our business is running very close to a profession.

By Chairman MERRITT:

Q. Is that one reason why there is such a strong feeling against rebates? A. Yes, sir, among qualified brokers.

Q. Among the men that are doing the high-class work? A. Yes, sir.

Q. In other words, after you have gone to all this expense, you do not want a man to go to some other fellow and have him get the insurance from the benefit of your labor, and possibly get a lower rate than you could make under the rule? A. By rebating?

Q. Yes. That is just it, and we very frequently go up against that kind of a proposition, particularly with 95 per cent of the brokers, I should say, who are not qualified, who do not maintain the equipment that we do, who, I am frank to say, very frequently are in the business because they fail in some other line of business and they want to get into something where they can make a dollar without any capital and use their friends and their relatives.

Q. Following out your suggestion, it would be wise for the respective builder to retain his broker at least as soon as he did his architect? A. Absolutely.

Q. And let them collaborate on the construction of his building, one having in mind the convenience and color and beauty, etc., of the building, and the other having in mind the economy of maintenance? A. I think so; yes.

Q. And that is sometimes done, is it not? A. That is sometimes done. Very frequently done, I should say. Sometimes the contract is let before we get into it.

By Mr. Hurrell:

Q. What would happen if there were no brokers here to such a risk as you have been describing; would not the companies attempt to advise the men so he would get a lower rate? A. Well, at the present time the companies are not qualified to advise them, and the New York Fire Insurance Exchange, where they sometimes go for information, are pretty well crowded with detail, and they naturally do not take the same interest in it that the broker does. I think what would happen would be this, that I do not think that the improvements of the better class of buildings would go on in the same proportion that they have been going on during the last few years.

Q. Would they take up with a prospective building the matter at all at the Exchange? A. They would not undertake to do so; I don't think so.

Q. Do you think that this situation results because of the presence of the broker who is already here or because of any feeling on the part of the companies that by advising men in regard to their risks they could cut the total premium income down? A. I think it is due to the fact that the brokers are here. On the other hand, if the companies undertake to do that it would add very largely to their own expense. They feel that the broker is here and the broker will put it through.

By Chairman Merritt:

Q. It all comes out of the assured, of course? A. Absolutely; yes.

Q. The only question of policy as to you — you are going to divide that up, as far as the person having the policy is concerned, they have got to pay for it, anyway, but what they want is the most efficient system by which they can get the best results? A. Yes, sir.

Q. This has been an evolution, I take it, in the business. None of the assured, I understand, have been to any appreciable degree instrumental in establishing the two systems? A. No, they have not; they have benefited.

Q. But they have not participated in the working out of the

system by which the business is actually done? A. No, sir, they have not.

By Assemblyman FOLEY:

Q. The broker is the most active of the two agencies in securing this matter, these improved conditions, with a consequent reduction of the premium? A. I may say that he is practically the whole factor, except that the Exchange makes the schedules which we are obliged to follow.

By Mr. HURRELL:

Q. Now you have described the operation of a broker on a building risk. Will you go more into detail, please, regarding the use of the broker in placing the insurance on stock in a large warehouse or department store or other mercantile risk? A. If it is a crowded risk, or in a crowded district, where a large volume of insurance is carried on that particular risk or on the block, he must hustle pretty hard sometimes to cover that entire line. The first duty of the broker, as I mentioned before, is to study the insurable interests, the conditions. You are aware that there are a great many conditions of the policy, if the insurable interest is not correctly stated, it is our duty to go into all those conditions and put this insurance out so that when the loss comes there will be no flaws in the policy, and where they have got a hundred or 200 policies on a risk it is very important to have them so framed up, those contracts so concurrent in form, that there won't be what we call confliction in our business, so that in some instances the companies in a loss won't fight among themselves to find out who is liable for some particular part of the loss and who is not.

Q. You often have risks where the policies run up to 200? A. Yes.

Q. And your idea is that each policy must be concurrent, so that all the companies will have an absolutely fixed mathematical basis upon which to contribute to the loss when it comes? A. Exactly. I would like to elaborate on that condition in a condition that existed here about a year ago, if you like.

Q. Certainly; go ahead. A. Showing the duties and the importance of the broker. For years it was our custom in insuring

machinery of a factory to include patterns under one item, machinery, fixtures, tools, patterns. Well, the companies found that patterns were of uncertain quantity as to value. Sometimes they were called upon to pay a full loss on obsolete patterns, and they found it necessary to adopt some method to protect themselves, and so they made a rule that, in order to insure patterns, we must insure them specifically. In other words, a man must declare his value of patterns rather than mix them all up with his machinery.

Q. Just at that point, is that a species of valued property, or was that a maximum that he could claim under the policies? A. Yes. It was not a species of valued property. Of course in conditions of adjusting losses it is a wide open question. A man may have patterns ordered and manufactured to produce a certain article five years ago that may have cost him $500; now, they are on the shelf. He can say, and sometimes properly say, I expect to get another order from that concern and those patterns are worth what they cost me. The insurance companies are hardly in a position to refute that. On the other hand, they may stay on the shelf indefinitely, and they may be worth no more than the wood that is in them. To go on. It almost invariably happens that in a large risk we have insurance expiring in every month of the year. We go along from January down to November, we will say, and we have insured our machinery and our patterns in a blanket form. Along comes a rule in Deecmber that we must insure them specifically, and we have only to follow that rule. Just as soon as we do that we have not got concurrent insurance, and we must get back all the policies of January down to November, and change the form and correct them, so as to make them concurrent, so that when a loss comes we may collect them without confliction.

Q. Do you get any money for that in addition to commissions? A. No, sir; that is part of our duty.

By Chairman Merritt:

Q. Do you, for a good many clients, keep the policies in your own possession? A. Yes, very frequenty.

Q. They rely entirely on you to see to the insurance of their property? A. Yes, sir; I think in some instances they rely too much on their brokers.

Q. It depends on how it turns out? A. Yes, that is true.

By Assemblyman COLNE:

Q. It seems to me your duty seems to be performed in some instances a great deal better than a lawyer's? A. Well, sir, I have frequently had lawyers come to me for advice on insurance questions.

Q. But I mean in the same relation to the client?

Chairman MERRITT: Why should you criticise a lawyer?

By Mr. HURRELL:

Q. You were starting to tell the Committee how the ordinary broker's office is equipped to do all this, when I asked you for a specific instance a few moments ago — equipped to handle the business? A. In my office it costs me a good many thousand dollars a year to maintain an equipment to look after my clients in the manner which I have described.

Q. Do you have an engineers' inspection bureau? A. Absolutely, with a staff of three or four in that department.

Q. And that is not uncommon among brokers who handle downtown business? A. It is absolutely necessary for a large brokerage house to maintain such an equipment.

Q. Do you do a constant inspecting of your client's properties? A. Our large risks, yes; we cannot on all of them, but our large risks we do.

Q. And you mentioned a few moments ago that you had to have a general knowledge of insurance laws of the various States. Do you insure property outside of New York city? A. Yes, sir.

Q. Is that why you have to have that general knowledge? A. Yes, by that we have to subscribe to the authorities on insurance, and study and keep the important questions in mind, and how they have been disposed of.

By Chairman MERRITT:

Q. Do you have in your office a legal department? A. No, sir, I do not, except what study I have made by myself of insurance questions. Naturally anything that comes up of importance, a decision of a court in this, that, or the other State, why, we get it either through the books that are published by specialists on insurance law, or we get it from the newspapers, and we stow it away for

future use. We never let anything of that kind go by which enables us to more perfectly equip ourselves for our business.

By Mr. Hurrell:

Q. You, of course, have frequent dealings with the New York Fire Insurance Exchange? A. We do.

Q. What is your opinion as a broker, Mr. Eckert, of the question of anti-compact, as to whether a law should be passed prohibiting the continuance of the New York Fire Insurance Exchange? A. I think an anti-compact law would result disastrously to the public in the long run.

Q. You are in the business representing the public? A. I am.

Q. From a point of view of your clients, who pay close on to a million dollars of premiums a year, will you elaborate on your opinion there as to why you think the abolishment of the Exchange would result disastrously? A. I have been through two of these open markets, and what happens in each case is that the small companies are crowded out. They get scared immediately. They withdraw. That is, the ocmpanies of other States withdraw. New York companies reinsure; and the insurance or the underwriting capacity is very seriously reduced. Then it naturally follows that those who are left are in a better position to demand their own rates. I believe there are many large risks in this city if we would have an open market, and if it continued for a year or more, that would bind themselves, paying, perhaps, just as much premium for less insurance and poorer insurance than they are now paying under the rules and rates of the New York Fire Insurance Exchange.

Q. What is the condition where there is a rate war as to the continuance of policies through their ordinary term? A. The companies have acted very fairly about that. They have not canceled, and, I may say, that is somewhat due to the influence of the broker. They do not cancel; they allow their policies to mature, but in placing new insurance the broker, in the interest of his client, must necessarily find the rock bottom rate, and the broker then does force the rate down, and I should say, perhaps, to one-quarter of the rates which existed before.

Q. That is, you mean you force the rates down under the Er-

change? A. We do, by the application of these schedules in every possible way, but I am speaking of an open market rate.

Q. Is your statement that you could force the rates down to about one-quarter of the present rates? A. Yes, that is true, but it follows from that the rates are paid and the premiums that are derived from these rates are not sufficient to pay the losses.

Q. Yes, that is why you say the smaller companies would go out and leave the field to the big ones? A. Yes, sir.

Q. Now, then, how long would you say the brokers would be able to force the rates down to about one-quarter of the present rates in their open market condition? A. I do not quite understand your question.

Q. I thought there was a slight contradiction there in your statement that the result would be ultimately a higher rate to the public, then you started to say that you would be able to force the rates down to one-quarter by competitive methods. I ask how long that condition of low rates would last before there would be a rise, in your judgment? A. It would last permanently on a great many of the smaller risks, but the larger risks, the companies would demand probably higher rates than they are now getting, because a dwelling, fire-proof apartment house or something of that sort is looked upon as preferred business and the rates would go down.

By Assemblyman FOLEY:

Q. The companies could not pay any premiums on that 25 per cent rate? A. No, I don't think so.

By Mr. HURRELL:

Q. Have you anything to offer on the subject of the New York Fire Insurance Exchange; do you think that it is at present constituted, that it is ideal? A. I think there always ought to be some method of uniform rates. As a general proposition, I think the Exchange tries to be fair, and its members try to be fair. There are possibly inconsistencies here and there, inconsistencies both ways. We frequently have companies decline to write risks at the rates prescribed by the Exchange. On the other hand, there may possibly be cases where the rates might be a little inconsistent on the other side.

By Assemblyman COLNE:

Q. Do you think that the State could in any way control that specific matter? A. The making of rates?

Q. Yes. A. Where it has been tried, sir, it has not turned out at all successfully, but it seems to me that the men who pay the losses are better competent to figure the cost of making the rates.

Q. Because they would have more knowledge of the subject? A. I should assume so; yes, sir.

By Mr. HURRELL:

Q. Have you found, in your experience, that the application of the schedule promulgated by the Exchange results in no discrimination between individuals of the same class? A. I do not think there is what you can call discrimination. I think, perhaps, there might be an inconsistency, but I do not think it is premeditated on the part of the Exchange. That is really a matter of every man's judgment, after all.

Q. The idea has been advanced, or several ideas have been advanced by parties who have offered suggestions and remedies, one of them being that as rating organizations seem to be neecssary to prevent discrimination, the State should put into operation a board of review, that would pass on the rates that were finally made, citing the companies to show cause where a complaint was made as to the size of the rate, and directing the companies to justify themselves before this board. Is your opinion as a practical man in the business that such a court of review could be operated successfully and fairly to the companies? A. I think, perhaps, such a court of review might be very carefully studied and worked out, and I should think the companies themselves might be glad of such a condition of affairs; if such a board of review would fairly take into consideration the companies interested on their side of the case as well as that of the public.

By Assemblyman COLNE:

Q. Do you think that court of review would be overburdened with claims? A. They would certainly have a great many claims, sir. I think they would be kept pretty busy.

By Mr. HURRELL:

Q. Now, is there any difference in your mind between questions of fact which might come up between the brokers and the Exchange, and the question of rates itself; do you think a board of that kind might be safely entrusted with the making or the vetoing of the rate? A. That is a very deep question, Mr. Hurrell, and the principle of it appeals to me; but it seems to me that the working of it out is a matter that should receive very careful study, and it would be very hard to pass an opinion as to just how that could be worked out.

Q. As I get it, the main reason in your mind why anti-compact is a bad thing, is because it may interfere with the stability of the companies? A. Yes, sir.

Q. Now take a State rating board, or a board of the State which had the power of vetoing rates as made by the companies, if they exercised that to such an extent that the companies' profits were depleted, it would still be tending towards a condition where the companies would not be as solvent as if left to themselves? A. That is true, yes, sir, and the result would be that probably some of the companies would have to withdraw, or decline to write insurance.

Q. Now, leaving that question of rates alone; what use would this board be on other questions; what use could it have in this connection; are there severe conflicts between the brokers, individual brokers, and the Exchange, on different matters concerning the application of their own rule? A. I think sometimes there are; yes, sir. There are times when there is an open question as to the application of their rule on a certain risk, under certain conditions, open for argument.

Q. And when an argument comes up what happens? A. We try to get a decision from the manager or his assistant. If we won't get it, then probably it goes to the rate committee, or some other committee that has jurisdiction over that subject, for them to pass upon it.

Q. How long does it take you to get action from this body? A. Well, I should say an average of two or three weeks, at least. They are pretty busy. These committees meet once a week and sit an hour and a half or two hours. They have a great many matters

come up before them. Sometimes your subject isn't reached promptly.

Q. Do you find, as a practical matter, wherever you bring anything to the attention of the Exchange, that it is listened to, and you have a day in court, before men that approach the subject with fair minds? A. We do not have our day in court. The brokers, as a general proposition, do not appear before these committees. They simply write what they have to say, and it is passed upon by secret session by the committee.

Q. Well, have there been any cases in your own experience where you did not get action in that pleasant way? What I am trying to get at is, are there concrete examples existing where the machinery of the Fire Exchange has been too cumbersome or too stiff to give relief; where something has been done by the broker that the Exchange says has not been done, ignoring what the brokers say have been done, and there is a question of fact; now, we have understood that there was sometimes difficulty in having the facts the brokers allege accepted by the Exchange, where, what the broker alleges would result in a reduction of rate, if what the broker says is true? A. I have had that experience; yes, sir.

Q. In attempting to gain a reduction, taking in a change of a large section of the business section of Brooklyn, you were in that, were you not? A. I was interested in that.

Q. You did not get any action very quickly there, did you, from the Exchange? A. No, sir; I did not.

Q. I wish you would tell us about that; that is what I want to get at; whether the Exchange is too stiff, under the rules, for the giving of quick relief in matters of that kind? A. I individually seemed what I was after in that particular case.

Q. How long did it take you to get it? A. Well, after I completed my final work of improvement, I presume it took me about two months at least. I was acting as chairman of the insurance committee of the Manufacturers' Association of Brooklyn, and some eight years ago the Insurance Exchange found that the water supplies in Brooklyn were in bad shape, the mains were old, and were not sufficient to supply the community. At the end of six or seven years I took the work up on behalf of the Manufacturers' Asociation, and caused considerable improvements to be made in

these water supplies. When they were completed our engineers tested them out and found we had the required supply of water to meet the standards of the Exchange, and reported them. Afterwards the Exchange themselves sent their engineering force over to make a similar inspection; and we disagreed.

Q. Now, let me ask, before you go any further; there was a specific charge on each man's rate in that district, by reason of that alleged defective condition? A. Yes, the charge in some neighborhoods 20 per cent, in others 30 per cent, and in some neighborhoods as high as 50 per cent.

Assemblyman COLNE: In addition to the basic rate?

The WITNESS: Yes, sir; in addition to the rate arrived at by schedule.

Assemblyman FOLEY: On the new policies?

The WITNESS: On new policies. I may say it was on all policies, because this rule increasing these rates had taken effect in 1892.

Q. Now, there, if you could show that you had created a condition which they required, it would have resulted in the reduction of these various percentages? A. Yes, sir.

Q. And the Exchange engineers, to whom they referred it, said you had not created them? A. Yes. It is only fair to say, Mr. Hurrell, however, that that condition took place largely through my influence, and personal acquaintance with the members of the committee who had this matter in charge. I induced them to go with me over this ground, with the representatives of the Exchange, that is the employees of the Exchange.

Assemblyman COLNE: Don't they do that in every case?

The WITNESS: Not the Committee itself; they leave it to the employees of the Exchange.

Q. That is what I am getting at? A. Yes.

Q. And you had a case here where the employees made a report that conditions had not been made satisfactory? A. Yes, sir.

Q. Proceed. A. I got the committee itself, managers, presidents of insurance companies, officers of insurance companies, to go with me, and we went right over this ground, and tested out these hydrants, to see if they were so bad off, or if our claims were right, and the result was we secured the concession we were after.

Q. That is, these percentages were taken off that charge of the schedule? A. Yes, sir.

Q. That sort of a test showed the committee which you took over there that their engineers, that they were relying on for the facts, were in error? A. Yes.

Q. And not to be relied upon? A. Yes, sir.

Q. Now, that is one instance. Suppose you got a smaller broker, or a smaller risk, and there is a charge for some defect like electric wiring, or some other thing, for which these various charges are made in the schedue there, and the broker reports thaat such and such defect is remedied, and asks the Exchange to go out and make a survey, that is the way it happens, isn't it? A. Yes.

Q. And the Exchange sends one of these employees out to make a survey, and he comes back and says it is not corrected; how much chance would that broker have, with a small risk of that kind, to get a number of the company's officers, or a committee of the Exchange to look it over; would he have any chance? A. I am afraid he would have difficulty about getting the committee out. I don't think he could get them out.

Q. He would have to take it out in abuse of the Exchange? A. Yes. This was a large question that was involved, this Brooklyn matter. I presume that made it a little easy for me to get the committee out in that respect.

Assemblyman COLNE: Did it include the whole of Brooklyn, or a specific territory?

The WITNESS: A specific territory.

Assemblyman COLNE: Manufacturing?

The WITNESS: Largely, yes, sir.

Assemblyman FOLEY: How much would you say the reduction of premiums was caused by that charge?

The WITNESS: We estimated at that time something like $200,000.

Assemblyman FOLEY: That much less for the insurers?

The WITNESS: Yes, sir.

Q. I take it, that a court of review, or board of review would be useful in such cases as that, and similar cases, where there was not such a large amount involved, would it not? A. Yes, I think so.

Q. Would you personally go on record as being in favor of some kind of reviewing body, for such instances as you have mentioned here, where issues of facts arise, under rules of the Exchange? A. I would, Mr. Hurrell, if the authority and method of operation was carefully studied out. I think as I said before, it is a question that should be very carefully studied, how such a board of review should be performed, and how it should operate, and the companies have their side of the case always, as well as the assured; and such a board ought to be formed so they will act absolutely impartially, and intelligently, and perhaps their authority ought to be limited to certain questions. Such a board might do a whole lot of harm, I imagine, unless it was properly constituted.

Q. Do you believe that the Insurance Exchange and the insurance companies are sensitive enough to public opinion, that if there were an inspector of the State to pass on questions of fact of the kind we have just been describing, and report publicly, say, to the State Department of Insurance, so that it would have full publicity, that the Exchange, when the various complaints that might come before that inspector, was wrong in its conclusion on the facts, do you think that would tend, without going further, to remedy any little inequalities that might exist, or any large ones? A. I think so; but I think if such an inspector was fair, I imagine the companies would even be glad — I should imagine they would be glad to cooperate with him. I think they want to be fair, as a general proposition.

Q. Conditions over in Brooklyn — are the conditions of Brooklyn about the same as they are in New York city, perhaps in the business districts? A. I think so; yes, sir.

Q. This was right in the business section of Brooklyn where you were operating with this improved water service? A. Yes, sir.

Q. Do you know anything about the base rate in the two places? A. The base rate on what we call the manufacturing schedules are the same. They do adopt a different base rate for what we call the mercantile schedule. The mercantile schedule is used for rating mercantile risks, while the manufacturing schedule is generally used for rating manufacturing risks. Now, they adopt the same base rates on manufacturing risks, but their key rate on their mercantile schedule is 20 cents, where it is 10 cents in New York.

Q. You speak of a key rate, as a base rate? A. Yes; that isn't the base rate for the business itself; the base rate for the existing conditions, you may say.

Q. It is the bottom where they commence to add the charges on? A. Exactly.

Q. It is the bottom figure? A. Yes, sir.

Q. Then they apply the schedule? A. Yes, sir.

Q. Now, your statement, do I understand it to be, that the base rate in Brooklyn as to mercantile risks is ten cents higher than the base rate on similar risks in New York city? A. Yes, sir.

Q. And the conditions of fire protection and water service is substantially alike in the two cities? A. I think they compare favorably now, one with the other.

Q. Well, isn't that a large enough item to warrant an effort on the part of Brooklyn merchants carrying those risks, or rather insuring those risks, to get that inequality leveled off? A. I should think they might probably make a study of that situation and bring it up, yes, sir. I think perhaps, the reason it has not been brought up is due to the fact that they are not aware of the large improvement made in the water supply in Brooklyn.

Q. You mean, the Exchange is not? A. Well, the Exchange I think, the Exchange know about it; if they do know of the improvements, they may have some different ideas in regard to the different matters that go to make up these key rates, fire department, fire alarm service, and general construction of the city, etc. But these key rates were adopted when the water supply in Brooklyn was deficient.

Q. Then, of course, there was a special charge for that in the schedule, wasn't there, for deficient water supply? A. Yes, that came on afterwards.

Q. So they seem, don't they, to have added a charge in the base rate, and a different charge, as a specific item of the schedule? A. I should imagine when they adopted these schedules, they did it on the general principle that Brooklyn wasn't as good as New York; I think later on, when they added the flat charges they did it on the realization that conditions in Brooklyn were rather bad.

Assemblyman COLNE: Don't you think they decided on the

fire department itself? If anybody knows the conditions of operation, &c., it is the members of the Fire Exchange?

The WITNESS: I think they keep pretty close study on it, yes, sir.

Assemblyman COLNE: Probably more than anybody?

The WITNESS: I think so, yes, sir.

Assemblyman COLNE: Outside of the department themselves?

The WITNESS: Yes, sir.

Q. Do you agree, Mr. Eckert, that the present system of certifying of the brokers, which the Exchange does, are the licensing of brokers by the Exchange, is a correct system? A. I should much prefer to see the brokers licensed by the State.

Q. Do you think that a large part of the public complaint against the Exchange comes from the fact that they wield a power over these 8,000 persons you have spoken of here? A. I don't say so. The public would naturally object to the power, so far as the brokers were concerned, or would emanate from the brokers. I don't see how it reaches the public as a general insurance proposition.

Q. Well, the fact that the companies have got the situation so tied up by this Exchange, and have the power of life and death, so far as business is concerned, over the brokers, so as to make them, a principle at least, in controlling the insurance against the public interest; don't you think so? A. Yes, it is quite possible that some members of the public might take that view of it.

Q. The brokers, the ones that do the big business, sign the two pledges, do they not? A. Yes, sir.

Q. So, that if the insurance Exchange should run rates up to very high figures, the brokers would lay helpless before them, would they not? A. Very largely so, yes, sir.

Q. If you to-day objected to a rate you know from your own experience of the rate on a given risk has become too high, you as a broker, cannot help your client out? A. Except by the operation of the rules of the Exchange.

Q. That is all right, but I mean you could not take him out — if there was, suppose the Continental, for instance, were outside of the Exchange, you could not place your client with the Continental, even though they were willing to take it at a lower rate,

could you? A. No, sir. The best we could do would be to advise our assured to go there for a policy, and he would have to go there.

Q. And you would not get anything out of it? A. That is true.

Q. And you would not be advising your assured to go there and get a policy of that kind, because you are in business for a living? A. That is so, but we frequently do that, Mr. Hurrell. We find it — I think the better class of brokers find it pays best to always look after his client's interest first, and make his own interests secondary.

Q. Of course, those cases must be exceptional? A. They are exceptional, yes, sir.

Q. The idea has been suggested here, Mr. Eckert, that qualifications should be set forth in a statute, a test, of what a broker, or insurance agent should be.

Q. Do you believe in that idea? A. I certainly do. I think it would be one of the best things for the public that ever happened.

Q. I assume you do, because of the highly technical character of the insurance man's business, as you have described it here this morning. A. And the public don't realize it; if they did, they would be more particular.

Q. How far would you go in laying down these classifications? A. I think a man ought to qualify to the fullest extent, as to business knowledge and ability. I think he ought to qualify as to his responsibility, for the handling of these premiums that he collects and hands over to the company.

Q. Would you have the State go further with the technical insurance man than they go with attorneys? A. I am not quite familiar just how far they go with attorneys.

Q. They license attorneys, you know, without requiring attorneys to put up a bond to be honest? A. They do not?

Q. They do? A. I think the insurance broker ought to put up a bond to be honest.

Q. I say, the lawyer, after he passes his examination, without requiring a lawyer to give a bond the State licenses him; without requiring him to give a bond that he will be honest. I understand you to advocate that the insurance man should not only

qualify as to fitness, but also to put up a bond to insure his honesty? A. It seems to be consistent with the organization of the Insurance Department. They have the insurance companies under strict regulation, as to their assets and how they should be invested. I should think it would be quite proper to protect the public from six or seven thousand brokers, who perhaps do not thoroughly understand their business, and some of them, maybe, who are not honest.

Q. As far as with the test of fitness, — I was addressing myself to the bonding question. As a matter of fact, what practical reasons must you have for bonding idea? A. Well, there are a great many brokers who collect premiums and don't turn them over. The public have an idea that when they pay the broker the premium that settles it; but along in about thirty days they get a notice from the company, that their premium not having been paid, their policy is cancelled. And the first thing they do is to notify the company, and say: "I paid it to the broker." The company says: "That don't make any difference, your policy stays cancelled, or you pay the premium over again."

Q. Have you any concrete example in mind where just that situation happened, and there was a fire happened, that the insured knowing that, wasn't paid his insurance? A. No, I can't recall just now any such condition of affairs as that.

Q. What is the practical situation where a broker is taking care of a client's insurance; does the insurance company in its relations with the insured, deal through the broker? A. They do.

Q. Where would a notice of cancellation go? A. That notice goes to the insured, because, that is largely because of the decision of some of the courts, that in order to cancel a policy, the notice must go to the assured, and be a registered notice. Five days' notice must be given him. That is probably one of the most general reasons, or cases, where they would send the notice to the assured. They very rarely send the notice to the assured, except on this question of cancellation, in order to procure a legal cancellation.

Q. Isn't that just the reason why the insured should know whether his broker was dishonest, and he would know when he got

such notice that the companies hadn't got the money? A. True. That is so.

Q. Do you mean to say that the insured, after having paid the premium to the broker, which didn't go to the company, and a notice comes to the assured that his policy is canceled for non-payment of premiums, that is necessary to protect a man, where the companies rely on such a notice, that there ought to be a bond covering that broker? A. I think so, yes, sir.

Q. Then, your idea is more the protecting of the insured against loss of premiums than it is to protect the insured against damage by fire without insurance? A. I believe it is pretty generally understood that there are certain things the broker may do, or may not do, to make him personally responsible in a court, for his client's interest.

Q. For instance? A. Why, failure perhaps to cover a line when he has got an order. He may get an order to cover a line of insurance, and doesn't do it, or doesn't do it properly, doesn't use the proper methods, and a loss occurs. I think that his client has an action against him. I think that decision has been rendered in one of the other States in connection with a broker placing insurance in a poor company, not using due diligence to get the best kind of a company.

Q. You would not have the State go so far in its definition of the fitness of a broker, as to force him to select between admitted companies, would you? A. No, no, sir; not necessarily. The point is right here: You take a broker who is a responsible man, and values his business reputation and has been in it a long time; he is responsible, and if a decision of a court held him responsible for anything he does or does not do, why he has got to pay, but on the other hand, here is a similar broker without any qualifications, why, he can't pay.

Q. Do you think the business is so responsible, so highly technical, that the State ought to examine through a board, the applicants for a license to conduct the insurance business, so they would conduct it intelligently? A. I think it would be a step in the right direction, yes, sir.

Q. How many of these 8,000 brokers do you suppose understand the 80 per cent co-insurance clause? A. I wouldn't want

to believe more than a couple of hundred of them could explain it.

Q. Do you think if that was one of the tests, a good many insurance men would get out of business? A. I think so, yes, sir.

Chairman MERRITT: Somebody ought to see they know it, either the State or the companies, hadn't they?

The WITNESS: I think so, Mr. Chairman. From my experience with the public I feel if they thoroughly understood the difference between brokers, a responsible broker, who thoroughly understands his business, and a man who don't, I don't think they would take their chance with the man who don't.

Assemblyman COLNE: How many of the assured know the 80 per cent clause?

The WITNESS: Here and there you will find a man that is up on it.

Assemblyman COLNE: Less than the brokers?

The WITNESS: More often, when you ask a member of the assured his version of the co-insurance clause, he thinks it means he is only going to get 80 per cent of the loss; that is the public's general impression of it.

Assemblyman FOLEY: If you meet a man that has had a partial loss, he understands it?

The WITNESS: Oh, yes, that is true, but he may forget it at that. If he has been acting as co-insurer, he knows it.

Q. Do you believe in the 80 per cent clause? A. Why, I believe that that is the only way that the insurance company can make an equitable rate on a certain amount of insurance, based upon the value. I don't see how they can work out an equitable rate to apply to everybody properly, without some agreed amount of insurance in comparison to value.

Q. I suppose the broker takes care of his client all the way through, after a loss happens as well as before? A. Very frequently we are called upon to get in and straighten out snarls which may come up in connection with a loss.

Q. Do you ever do any adjusting for your clients directly? A. Yes, sir.

Q. Do you explain this 80 per cent clause carefully to your insurers? A. I do, yes, sir.

Q. Have you ever in your experience with business men, busi-

ness risks, after a loss, found any dissatisfaction existing upon the part of the insured over the fact that the 80 per cent clause was on his policy? A. Yes, they are likely to have some dissatisfaction. But almost invariably when I have attempted to explain it to them they have agreed it was a fair proposition.

Q. Have you found that the business men of New York city with whom you deal are fairly well acquainted with the operation of the 80 per cent clause? A. The business men, yes, sir. Of course, there are exceptions, where a man will be careless about keeping his broker posted in regard to increase of values, and then when a loss comes along, the man is liable to be a co-insurer.

Q. I take it to be one of the articles of a broker's creed, telling his insured that he has to keep his property insured to 80 per cent, as his value increased? A. I do; a great many of the policies we send out to small insurers, where we don't go in and talk with them personally, we put a red sticker on the outside of the policy to call his attention to it, and advising him to see that it is complied wih.

Q. You have spoken of the rebate question earlier in your testimony; do you believe that a statute should be put upon the statute books prohibiting rebating in fire insurance? A. I certainly do, yes, sir.

Q. Assuming there was a State license law, would you — I suppose you would — agree that an anti-rebating law should be put on the books in conjunction with it? A. I think they ought to go hand in hand.

Q. And you would make rebating, I take it, by a licensed agent or broker, the cause for him losing his license? A. Yes, sir.

Q. Prohibiting him from doing business again in the field? A. Yes, sir.

Q. Is that feeling general among the reputable brokers of this city? A. What, of rebating?

Q. That feeling, that there should be such an anti-rebating statute? A. I think so, yes, sir; among the reputable brokers, without a doubt.

Q. How do the brokers feel about the licensing of company's officers? A. Well, company officers, as a general proposition, he controls a line of insurance, or controls it through friendship or

otherwise, and he becomes a direct competitor of the broker; he isn't in the brokerage business. I don't really see why he should be licensed. He is getting his revenue from his salary with the companies.

Q. Do you believe that the licensing of some of the officers of fire insurance companies by the Exchange as brokers, leads to a species of rebating? A. No, I can't say I believe that that particularly leards to rebating. If I understand your question, will you give me your question again?

Q. I asked you if you believed, I will put in also, have you heard anybody state that the system of licensing company officers by the Exchange opened the way for wholesale rebating by allowing those officers to use their power as brokers, to have their company give a lower rate to insurers? A. No, I haven't heard whether that condition exists. I think most of the company officers who hold licenses hold them because they personally control a little business and want to make the commission out of it. On the other hand, as a general proposition, they are not active competitors against the genereal broker.

By Chairman Merritt:

Q. Do you think the practice of rebating is quite general? A. I think it is, among certain classes of brokers, yes, sir.

Q. Do you think if the practice could be stopped that the brokers' commissions could be generally lowered? A. Perhaps in some lines. And in the line particularly, where I think the rebating is most prevalent, which is, I think, in this preferred business, where the larger commissions prevail. Where a man doesn't have to have much technical experience, and he doesn't have to have an expensive office and expensive equipment; the insuring of dwellings and apartment houses, we will say. He does not require that same technical experience that the man needs to insure a large manufacturer or large merchant. He can have just a couple of sets of forms, and if he goes around and gets that business, he gets 25 per cent commission for it, and he can rebate part of it. I think in that particular line where most of the abuse in this rebating exists, the larger brokers are not very active in that class of business. We find that we cannot profitably compete for it, or run after it.

Q. You take it if it comes to you? A. We take it if it comes to us, yes, sir.

By Mr. Hurrell:

Q. Isn't that the reason why there has to be a higher commission paid for the preferred line than in other lines, the fact that the broker, to do that class of business, has to go after it very largely, instead of having it come to them? A. Not with very much of it, I don't think. I think most of our buildings up town, if the broker did not go after it, the insurer would go after the insurance. If the insurer did not, perhaps his mortgagee would force him to do it. I am speaking more particularly with reference to speculative building, the new buildings that have gone up in the city. Almost invariably they have mortgages, and the mortgagee demands insurance. I think there are a great many brokerage affiliations with these large buildings. I think you would find, if you got right down to the bottom of it, that there are a great many employees of builders who have licenses, and in that way those builders get their rebates.

Q. The ordinary household furniture policy is considered preferred business, is it not, in residential sections? A. Yes, sir.

Q. Of course, the premium income on that business, on each policy, is very low? A. That is true, sir.

Q. And isn't it worth more to issue a lot of those small policies, to a lot of individuals, than to get one big risk down town at a lower commission? A. You mean, it takes more time of the broker?

Q. Yes? A. In the long run, I don't know whether it does or not. All he has to do is to grind them out, and after they are delivered, he has little or nothing to do with them, it is an individual risk, he doesn't have to look out for the matter of concurrency, as I have explained to you. There is nothing technical about it; he places the policy, and he does not hear from it again, unless there is a loss on it, for three years, excepting to transfer, when a party moves, or something of that sort.

By Chairman Merritt:

Q. What is the point of opposition, of your interest, and of the Exchange, to your large concerns having their own representa-

tive, salaried representative, attend to their insurance. Is it, that it takes from the great body of the business, enough so that it would make the brokers' business unprofitable, or what is the ground of opposition to it? I understand, for instance, a large department store, that there is an opposition on the part of brokers, and of insurance men generally, to their putting a man under a salary, for looking after their insurance on various lines, and attending to all the departments of a great department store building, the stock and one thing and another? A. They would have to pay him a salary, and I doubt very much whether they would be anything ahead; and he would not be qualified to handle their business as intelligently and as well. Take, for instance, a large line where it frequently happens that the broker has to do considerable studying to find out the place where to place that line for protection. He has to be thoroughly up to date, and know his business, and sometimes he uses his general influence to help his client.

Q. I suppose the same objection to their having a man under salary for that purpose would lie to their retaining a certified broker at a stipulated compensation, wouldn't it? A. I should think. From their standpoint, I am speaking.

Q. I am asking from your standpoint, from the standpoint of the trade, so to speak? A. Naturally, we want in the profession, from our standpoint, naturally we wouldn't care to see business deflected from us in that way.

Q. For instance, take it this way, you would object to a large concern retaining a broker to look after their business at a stipulated compensation for that work, you would want him to be paid the brokerage commission? A. Yes, sir; that is true.

Q. You would not accept a retainer yourself, say, from the owner of the new Astor Hotel, for a lump sum? A. I should not, if it involved a rebate of my commissions.

Q. You could not any way; you would consider that bad practice? A. I do, yes, sir.

Q. I mean, discussing it from the professional standpoint? A. Yes, sir. We often wish that, when our clients send for us to come to Harlem or Hoboken, or some place like that, and take our time for two or three hours, that we could make charges for our time, and advice, the same as an attorney does every

time he is called upon for consultation. We can't do that. We have to go along and give him the service for the commission we get out of his business. I think such an arrangement as that would probably cost a large insurer, as you speak of, just as much money, and he wouldn't begin to get the protection, or the service, nor the intelligent service.

By Mr. HURRELL:

Q. You have heard the idea advanced, have you not, that this question could be settled very largely, and the rates reduced for the assured, if the assured paid the broker instead of the company? A. I have heard that advanced, yes, sir.

Q. And you have heard the comment that this was a peculiar situation, where you were working entirely in the interest of the assured, and still were paid by the other party? A. That is true; but that seems to be the regular method of brokerage in almost every line of business, even down to merchandise. While we do work for the assured, and represent the assured, at the same time we are performing a great deal of work for the company, and performing it, I think, for less than they could get the same service if they attempted to send out their own paid employees. I am not so sure, but it is quite proper that they should pay the commission, on the same basis that everybody else pays a commission to a broker who brings them business. We not only get it for them, but we bring it to them, and bring it to them in proper shape; we get the money and hand it to them, and if we haven't collected it, some times we have to advance it on account of our client.

Q. Does it occur to you, Mr. Eckert, that where a broker works for one man and is paid by another, that discussion arises frequently where a loss occurs, where business is done this way, where a broker is acting for one man and is paid by the other? A. I think it resolves itself in a natural condition, Mr. Hurrell; he would naturally try to please the man he gets the trade from. On the other hand, you produce the business for a man, he takes the order, and you take the commission.

Chairman MERRITT: Isn't there confusion of ideas, in saying the company pays the broker, anyway? It occurs to me now, in

hearing this discussion, that the fact is, with relation to the company paying the broker, is that they protect him in his field, and see that the broker is paid for his service; that is a part of the act of the insured; it is included in the premium, and is understood by the assured, I suppose, and the company both, to amount to a certain percentage. And the whole relation of the company to the payment to the broker is in the nature of an agreement, or contract, to see that he is paid. Now, if he advances the premium, that is quite a different proposition. He is then making an arrangement in substance with the assured, by which he lends him, or advances him, money or credit, on this insurance. But I have not been satisfied in hearing the discussion here that it was accurate to say the company paid the broker.

The WITNESS: Indirectly, of course, the assured pays.

Chairman MERRITT: The assured pays it all; the company permits the broker to take out whatever the commission is when he pays over the premium; or he may pay it over — I don't know how it is done — you may pay in the premium, and then the company may give you the percentage. I don't know how you do that. I suppose, as a matter of fact, you deduct it?

The WITNESS: We deduct it, yes, sir.

Chairman MERRITT: But that is an arrangement between you and the company, by which your services, all comes from the premium, the assured paid at the time when the act of insurance is finally completed; which is when the premium is paid?

The WITNESS: When the premium is paid.

Chairman MERRITT: And that is to protect you, and your percentage which the assured has in substance, or in form, or in fact, agreed to pay you for the services you have rendered? A. Yes, sir. It is not a service for the company; it is a mistake to say the company pays the broker.

Q. Of course, there are times when the assured takes the insurance directly to the company; you can conceive of such a case? A. Very, very rarely.

Q. When the assured goes to the home office and gets his policy? A. That used to be, 25 or 30 years ago. There was a great deal more of it done than now.

Q. As bearing upon this question; then, in that event, no one pays the broker; there is no broker in it? A. No, sir.

Assemblyman COLNE: Doesn't that establish the fact more that the assured goes to the broker more as a matter of protection rather than going to the company itself?

The WITNESS: I think that might be considered the true sense. Furthermore, I am willing to say he gets better protection; not that the insurance company don't intend to give him everything that he is entitled to, but you go to any insurance company yourself, and place a policy of insurance upon your household furniture, and go to a broker and let him place another, and compare the two forms, and you will find many things in that form that protect you, you won't find in the form you get from the insurance company, and they cost you the same amount of money.

Chairman MERRITT: They do not give the person who goes direct the benefit of the commission?

The WITNESS: No.

Chairman MERRITT: It would seem as though they ought to do that, because that person brings the business to them just as much, just as truly as the broker does; but unless he has knowledge of insurance, and can fairly protect himself, to the standard of protection of the broker, as you have stated, he is not entitled to the commission for his personal knowledge of the insurance problem that the broker is, and, therefore, they can't give him the 15 per cent.

Mr. HURRELL: He might not have the fitness?

Chairman MERRITT: That is true. That is part of the protecting that is afforded the broker, and is one of the questions in the insurance problem; the fact that they don't get the commission — that the insured, if he goes in person, does not get the commission — therefore, he may as well go through the broker.

The WITNESS: Let me go a little further, in reply to that question, Mr. Chairman. It was not until 1899 that this Exchange was formed, and these rules put into effect. Prior to that time, I might say, in the former organization known as the New York Tariff Association, existing from 1891 to 1898, there was an organization much similar to the New York Fire Insurance Exchange; they didn't have the broker, such a broker's certificate; they didn't have the rule against rebating, and the assured was then in

the position of availing himself of a rebate, and frequently got it. But it wasn't general by any means; it was very rarely exercised.

Assemblyman COLNE: Was that done openly?

The WITNESS: Oh, yes. But I think you may say it was limited to here and there perhaps an old time merchant who had placed his insurance direct maybe half a century ago, or 30 or 40 years ago, he continued the practice; but it was not at all general, when they had the opportunity to go and place their business direct and get a rebate, they didn't avail themselves of that opportunity. They preferred to take it to their broker, and get the services which he performed for them.

Q. As I get your mind on this commission business, it is that you believe commissions are high in places where they ought not to be, and low where they ought to be higher? A. I think, — I don't see much excuse for the high rated commissions on these preferred lines, no. I think the men that handle that business, as a general proposition, are not students of the business, and there is no reason why they should get the larger commission.

Q. And if anything, you advocate, because of the expensive equipment which brokers' offices are forced to maintain, that they should, if anything, get a larger compensation percentage, for the business they handle? A. Exactly. On the other hand, I think that in some cases the commissions are too low. Take this 10 per cent commission, the broker gets in the dry goods district. In the dry goods district you will find risks maybe with a dozen tenants in them, and the rate is jumping up and down a dozen times a year, and each time we have to go in, and study that situation and straighten it up for the merchants; and if the rate is advanced, we get it down, if we can, or we find what improvements can be made by which his rate may be lowered. If a tenant has gone in that increases the hazard, and invalidates the insurance our customer carries in that building, we must send out all our policies and have them properly endorsed, and in that district the commission is ten per cent.

Assemblyman COLNE: We can take this question of commissions from two points, showing its usefulness; one, that owing to the plant which you generally have as a broker, you generally save the company money in the matter of eliminating from their side

additional help that they necessarily would have to have, and on the other side, so far as concerns the insured, your knowledge, due to practice, is to help him, and should also be paid for?

The WITNESS: Yes, sir; and let me add, that we are the factors that keep down this low ratio. The Exchange forms these schedules, but we are the factors that put them in operation. Almost any broker can recite cases where he has proposed, or put in a fire door, or something of that sort, that has saved the companies hundreds of thousands of dollars in loss, cut out the connection of the building by that fire door that broker recommended, six months, or a year or two years before.

Q. So, the point of view you take on that is, being naturally interested in your clients, instead of the companies especially, that is what it leads to? A. Yes, sir.

Q. The reduction of the loss ratio? A. Yes, sir. And just as soon as these exchanges are abolished, and all these appliances are discontinued, and the care and attention that the public are kept upto by their brokers, just so soon the loss ratio increases.

Q. Do you suppose if the commission were reduced in the preferred class, and this test were applied to the qualifications of brokers, and that a large reduction in the number of brokers were to follow, — if there are a lot of incompetent men among these 8,000, — that the result would be that this same kind of service which you give to merchants would be given to a certain extent in other districts, and would lead to a still further reduction of the loss ratio? A. Yes, sir; I do. I think if we got this situation in New York in an ideal way in operation, it would extend very generally.

Q. Do you think if there was more preferred business coming into the downtown brokers' offices, or to one of the larger offices, with its inspection power, and so forth, it would be performing substantially the services of an ideal fire marshal? A. To a certain extent, that may be so; yes, sir. I venture to say if you picked out a dozen apartment houses up town to-day, and put the rate schedules in the hands of an up-to-date broker, you will find he can reduce those rates, just by calling the Exchange's attention to errors, or by perhaps suggesting a little improvement.

Q. You also write business for as little as five per cent, do you not? A. Yes, unfortunately.

Q. That is the sprinklered risks? A. Yes, sir.

Q. Now, do you find any difficulty in getting the factory insurance association companies to compete for business of the sprinkler variety? A. The factory insurance association does not operate in New York city, but they have this restrictive sprinkler schedule; and then they have an inspection of the risk, to determine whether it is acceptable for rating in this restricted sprinkler schedule.

Q. Is that safety charge obtainable? A. It is in some cases; in others not. In the first place, if a risk is badly exposed, of course these sprinkler rates are predicated on a first-class sprinkler equipment. Almost all experts realize a sprinkler equipment is not of much value if an adjoining risk is in bad equipment. Or, in other words, if a certain building is equipped with sprinklers up to the highest standard, and there is an adjoining risk that isn't so equipped, and that adjoining risk burns, the efficiency of the sprinklers in the building that is equipped is cancelled; so, that in addition to the sprinkler system, there is an inspection system to see if the risk there is badly exposed; and if it is, it is not acceptable under the sprinklered schedule; nor is it unless it comes up to the standard of construction. Of course, those rates that are made are quite low, when they mean the minimum of risk.

Q. Is it customary for any company of the Exchange to take that sprinkler business, or does it usually go to the Exchange companies? A. It goes to all Exchange companies in New York. Outside of New York they operate through the Factory Insurance Association, which is of the same companies.

Q. Have you found in practice that you have brought risks to the members of the Exchange where, in your opinion, the rate ought to be lowered, and where you could not get competition, or where you could not get a lower rate from the members of the Exchange, where, for instance, you knew Mill Mutuals or other insurance entities would take the risks? A. Why, I should say yes. Of course we often think that perhaps a rate is a little high in some conditions, but perhaps we are prejudiced in the interest of our clients, and after all it is a matter of their opinion against ours. I think that the New York Fire Insurance Exchange will apply the restricted circle, consequently, on almost any risk that is eligible to mutual competition.

Q. You think it will? A. They are pretty careful themselves where they go, as far as congestion and exposure is concerned.

Q. The Reciprocal Underwriters furnishes some competition, does it not? A. Yes, it does, furnish some competition, but I do not believe it was ever designed for competitive purposes. I think Reciprocal Underwriters was designed to protect merchants, merchants each protecting one another, where they could not secure sufficient insurance to protect themselves with the fire companies.

Q. Then your experience is that the Insurance Exchange does respond to the conditions? A. They do; yes, sir.

Q. Is there anything you wish to add to what you have to say on your own motion. I have tried to question you on things that occurred to my mind? A. Only this: It seems to me that this question of commission that has been so much talked about — if there was a universal commission adopted all around it perhaps would be much more satisfactory to the companies in the long run.

Q. That is you mean it is like a straight 15 per cent commission on everything? A. Exactly. I think that is just about the figure that would strike a very fair average.

Q. What do you think of the contingent commission idea? A. To brokers?

Q. Well, I suppose you could apply it to brokers, but I am thinking more of agents, of course, with reference to the conditions outside of New York city? A. Well, it hardly seems a fair proposition, there are so many contingencies that come up from time to time that the agent is not responsible for. The insurance companies are organized to take chances. You take an agent and he may use his very best judgment and very best intelligence, and along comes a conflagration such as we have seen in the last few years, and the entire revenue, his entire proceeds are wiped out for years. I am not an agent, not personally interested, but I cannot seem to believe that that is quite fair. The contingent arrangement has been a sort of surplus income, and I think that is about as far as it ought to go. I think they have struck it right when they pay a man a flat commission and part contingent.

Q. You would say to the Committee in regard to any legislation on that subject, that the safest way would be to legislate for

a flat commission of about 15 per cent? A. You mean as to brokers?

Q. As to brokers? A. I think so. I think that could be proved that it is a fair commission to pay the broker for the work he has to do and energy he has to put forth and expense he is under to properly maintain an equipment to handle his client's interest. It must be borne in mind that the brokers of New York city do practically all the work. The companies make the rates through the Exchange, and then the broker gets the business and does practically everything else. In fact he writes the policy on forms that he furnishes at great expense to himself, and frequently they are incorrect and then we have to chase our boy back to do it over again, and then we give them the money, and I think we perform a large part of the insurance business in a large city. We have to assume a certain amount of responsibility in connection with it, too.

Q. I think that is all, unless there is anything you wish to add.

Assemblyman FOLEY: Is there anything that you have left out that you wanted to volunteer?

The WITNESS: I do not think of anything. I think Mr. Hurrell has covered the ground pretty thoroughly.

Assemblyman FOLEY: I just wanted to know, Mr. Hurrell, if he had left out anything, or wanted to volunteer himself without questioning.

The WITNESS: No, sir. I do not think of anything. If there is anything I think of I will be glad to let you know, sir.

Chairman MERRITT: The Committee will stand adjourned until 2 o'clock P. M.

Recess until 2 P. M.

AFTER RECESS.

Chairman MERRITT: The Committee will be in order.

A. S. DRESCHER, called as a witness, being duly sworn, testified as follows:

By Mr. HURRELL:

Q. Alderman, where do you live? A. 740 Seventh avenue, in that section of Brooklyn known as Brownsville.

Q. Has Brownsville a local Board of Trade? A. Yes, sir.

Q. Are you an officer in that Board of Trade? A. Yes, sir, I am its secretary for the past six years.

Q. Do you know whether the citizens of Brownsville have any complaint in reference to the rates which are charged for fire insurance? A. Yes, sir. There is a general complaint throughout the entire community amongst those who require insurance.

Q. Is the complaint that the rate is unduly high or that the district is discriminated against? A. The general feeling is that we have been discriminated against.

Q. In what particular? A. In a higher rate for the insurance that is required in our district, and in other sections of Brooklyn and the greater city.

Q. Have you looked up the records of the fires so that you could say whether the prevailing average loss in Brownsville is greater or less than in any other part of the city? A. Yes, sir. I have been over to the fire headquarters; spent many hours there looking up the records and have with me now the figures as secured from fire headquarters; from the official records of that department.

Q. That is those figures deal with what? The number of fires or the losses incurred? A. The number of fires; the number of calls — the number of fires. I could not get the information as to the total amount of losses in a total sum, but the average losses I have.

Q. Does the fire department keep those? A. The fire marshal's bureau does. I was over to the bureau and discovered what ——

Q. (Interrupting) Well, how does the district compare, ac-

cording to those figures, with other districts? A. With your permission I will read to you just what I discovered, in comparison with the other districts in the greater city.

Q. Without naming all of the other districts, can you make a general statement of what your results are? A. Yes. The loss within the last three years is thirty per cent less than any other section of Greater New York.

Q. Now, did you figure the losses in the other sections? A. Yes, sir, and I got this unofficially from the fire department from the records, and if you will permit me I will give you, as an example, two districts; one in Manhattan, uptown, where the people show more care, and then our section which is not as congested, and I will read, for instance:

Engine Company No. 53, 75 East 104th street. This is 1909. Alarms responded to, 787; fires performed, duty at, 262.

Engine Company No. 131 ——

Q. (Interrupting) That is the Brownsville engine? A. Browsville, 107 Watkins. Bear in mind, this one engine company serves our entire community of over 100,000 people.

Q. You mean this one engine? A. Down in Brownsville. That is the only engine company we have.

Q. And how many people? A. 367 runs; 177 times at work during 1909, and this was up until and including the first of last month; 323 runs and 152 times at work, showing a decrease. And I might add, Mr. Chairman, that during the year 1910, up to date, we have not had a two-alarm fire in that particular district.

Q. How many people does this engine No. 53 serve? A. About 100,000.

Q. That is the same amount in each case? No. I was speaking of engine 53 up at 75 East 104th street? A. I am going to allow you to use your own judgment. It is 104th street and Third avenue, New York city; solidly built up; flats.

Q. My judgment would not be of any good, as I do not know anything about it up there? A. My judgment is there are at least 100,000 people in that — no, I do not think in that area there is that many, but about 50,000. I assume there are other companies in the immediate vicinity.

Q. What I am getting at was, does this engine in Watkins street serve more people? A. Yes, because there is another engine company at 110th street, six blocks away.

By Assemblyman Colne:

Q. What is the nearest in Brownsville? A. The nearest engine company would be, I think, down on Herkimer street, Herkimer and about Hopkinson avenue, which is about a mile away. That is the nearest engine company.

By Mr. Hurrell:

Q. If your approximation is anywheres near correct, then it would seem to be that out Brownsville way there were not the facilities there for piling in engines as rapidly as there would be down at 104th street? A. Absolutely not.

Q. That might explain somewhat why there is a higher rate there, don't you think so? A. Well, the fact is this, we have to guide ourselves by the amount of fires, which means the number of losses.

Q. That is, you say that irrespective of the condition of the protection there, it is a matter of fact, that the record of your district shows that you have not had an excessive amount of losses? A. We have not, and the city has now appropriated $50,000 for another engine company, a little bit south of this particular fire house.

By Chairman Merritt:

Q. That ought to modify the risk, hadn't it? A. It ought to.

Q. That ought to be reflected in the rate? A. Yes, sir.

Q. When it is done? A. Yes, sir, but at the same time, Mr. Chairman, it seems that they have built a wall around my particular district, these insurance companies, and said if anybody wants insurance there, you have to pay our price or you cannot have insurance.

By Assemblyman Colne:

Q. But, Mr. Drescher, you cannot go back a great many years for experience on Brownsville, can you, because it is comparatively

new? A. Well, the district in the past half a dozen years has developed from a community of some 20,000 people to a hundred thousand. When the new Williamsburg bridge opened up, people flocked over and required homes, and made their homes there, and the district is one where the people are just as careful as any other section of the greater city, and they have to pay more insurance there, and the complaint with them is this: Why should we be discriminated against?

By Chairman MERRITT:

Q. Do the insurance companies, or the Fire Insurance Exchange, or anybody, give you any reason or excuse? A. Well, the brokers here. Well, I can privately tell you, at least my own judgment, as to what the excuse is. They find them easy people out there to pay, and through their brokers they try to get the biggest rate they can.

Q. Are they especially prosperous? A. Well, they were during the real estate boom. I guess some of them have got their money left, either in securities or in cash.

Q. Well, I wondered if they gave you — if you made inquiry of the Exchange or of the brokers, what they said about it? A. Well, they said that they based their action upon experience in Manhattan.

Q. How much difference is there in the rate between these two regions? A. 20 and 30 per cent.

Q. On the gross premium? A. Yes, sir.

By Mr. HURRELL:

Q. What is the total amount of insurance carried out your way? Have you any idea? A. The Title Guarantee and Trust Company and the Lawyers' Title Company, from what I learn, say there is about $18,000,000 worth of insurance carried in the 26th ward. That includes the Brownsville section and property east.

Q. That is $18,000,000 at risk? A. $18,000,000.

Q. At risk? A. Yes. That is on buildings alone. That is irrespective of household furniture or stock.

Q. Did you get any idea of what the amount of the risk was up in this Manhattan district you spoke of, or would that be purely

a guess? A. Well, I would have to guess at it. I got this information hurriedly. These are figures I got from the department records. I have got the report here, the printed report, if the Committee wants it. Of course, if I had more time I would go into it deeper, but I am simply illustrating the difference. Here is a section, up-town in Manhattan, supposed to be a better district than ours; that is, richer people live there, and people who are better off than our people, and still there is greater losses; more fires.

Mr. HURRELL: That is all, Alderman.

MORRIS E. ALEXANDER, called as a witness, being duly sworn, testified as follows:

By Mr. HURRELL:

Q. Where do you live? A. 190 New Jersey avenue, Brooklyn.

Q. That is in Brownsville? A. Yes, sir.

Q. What business do you follow? A. Fire insurance.

Q. As agent and broker? A. Agent and broker both.

Q. How long have you pursued that calling? A. Five years.

Q. In that district? A. Yes, sir.

Q. Do you know whether it is a fact that the companies belonging to the Fire Insurance Exchange charge a higher rate in that district than the Exchange promulgates? A. On contents they do.

Q. That is to say, the companies do not live up to the schedule put forth by the Exchange, but charge higher rates? A. Yes, sir.

Q. You know that to be a fact? A. Yes, sir.

Q. Do you know the reason why they charge higher rates than the schedule? A. They claim, from the experience of that class, that it is such that they ought to charge more, on account of the losses.

Q. On account of what? A. Losses.

Q. You mean the losses on stocks of merchandise or contents? A. Yes, sir.

Q. About what is that difference, about what is the average excess charge beyond the Exchange rate? A. It varies. On buildings well kept, the contents well kept, the advance is minimum; but a tenement house where it is kept, where it is uncanny, they charge more. The highest is $1 a year.

Q. You are familiar with schedule rates? A. Yes, sir.

Q. Do we understand that even in different buildings and contents of different buildings, that they apply with the charges on the schedule, that for specific defects those companies add more to that, making a still greater percentage? A. Sometimes they do.

Q. Do you say, from your experience, that it is their common practice to do it? A. Yes, most of the time.

Q. Have you got any specific properties in mind so that we could check that out by questioning the manager of the Fire Insurance Exchange? A. I would not be at liberty to say the places just now; but, for instance, where the building is kept in such condition that the fire happen quicker than in another place.

Q. You see my difficulty. If there is no particular place there is nothing to question the Fire Insurance Exchange about, to see if your statement is true. Have you got any specific cases where you have the specific rates, so we can inquire about it? A. Take 325 Christopher avenue for instance. The rate on that, according to the schedule of the Exchange, is 20 cents a year for contents, and they ask 75 cents a year.

Q. The rate charged is 75 cents a year? A. Yes, sir.

Q. Is that 20 cents a year a flat rate? A. That is the minimum rate of all contents, brick, store and dwelling.

Q. What I am getting at is, after the charge of an item on the schedule, which is in the schedule, there are charges for specific defects to get a higher rate, that is the way that is done? A. Yes, but we do not charge no more than $1 no matter what the schedule calls for, unless the schedule is higher than $1.

Q. You mean, the real situation is, no matter what the charges, no matter what the result of adding of these defects on, might be, if it exceeds more than $1 you do not charge more than $1? A. That is the rule of the companies around in that district.

Q. That they won't charge more than $1? A. Not unless the Exchange rate is higher than $1.

By Chairman MERRITT:

Q. If it is higher they charge more? A. Then they charge the Exchange rate.

By Senator Colne:

Q. Suppose the combined schedule, added up, came to 80 cents, would they charge a dollar then? A. Yes, sir.

By Mr. Hurrell:

Q. You cite one illustration, 335 Christopher avenue? A. Yes, as an illustration, of course.

Q. Do you know what the rate is there, 75 cents? A. 75 cents.

Q. 75 cents there, while you say the schedule would only amount to 20 cents? A. Yes, sir.

Q. For that particular building you say 20 cents is the minimum rate? A. Yes, sir.

Q. Is that a perfect building in the sense that it complies with all the requirements of an ideal risk, or that it is not subject to any of the charges of the schedule? A. It is not.

Q. It is not an ideal risk? A. No, sir.

Q. What would the rate be if you added to that 20 cents the various charges from the schedule? A. I don't know.

Q. You see the comparison, then, fails absolutely, because we have not got anything to compare it with? A. In some places, where there is defective heating apparatus, in some other buildings where there is defective heating apparatus, or there would be a tenant in there that commands a high rate, such as a sign painter or an awning maker.

Q. Then they add a special rate to charge for that specific hazard? A. Yes, sir.

Q. World you say that all those charges for non-hazards that enter into the computation of the rate schedule of the Exchange would produce a less rate than 75 cents? A. It all depends on what is in there. Whether it is a sign painter or awning maker or painter or printer; they all vary.

Q. But take this specific piece of property 335 Christopher avenue; do you know what is there? A. There is nothing there but stores and dwellings.

JACOB ZOELL, called as a witness, being duly sworn, testified as follows:

By Mr. HURRELL:

Q. Where do you live? A. 1400 Pitkin avenue.

Q. That is in the section called Brownsville? A. Well, that is at the end of the Eastern Parkway, and Boulevard, at the eastern beginning of it.

Q. Do you have property in that section? A. Yes.

Q. Do you have it insured? A. Yes, sir.

Q. Have you any complaint to make to this Committee about your fire insurance rate? A. Yes, sir.

Q. What is it? A. I finished two buildings three years ago.

Q. What are the numbers of the buildings, please? A. 570 Sutter avenue and 314 Georgia avenue.

Q. What is the rate now on those buildings? A. They charge me $1.15 per hundred.

Q. $1.15? A. Yes, sir.

Q. What was it last year? A. Three years ago, when the buildings were finished, I paid 50 cents.

Q. So that your rate has increased the difference between 50 cents and $1.15? A. Yes, sir.

Q. Do you know what the increase was for? A. They claimed that there was some certain things to be altered.

Q. Did you alter them? A. No, sir. The insurance expired only this month, and when I went to place new insurance they told me that the rate was that much increased.

Q. What did they tell you to alter? A. Well, they told me to alter some store fronts on the first floor, to divide off the two buildings. There are two buildings, and the store fronts were joined together. There is a party wall between the two buildings, and they told me I must separate the two store fronts.

Q. That is, you mean there was a party wall all except in the front? A. Yes, sir.

Q. And they wanted that party wall running through out to the street? A. Yes, sir.

Q. And you did not do that? A. Suppose if I do that, my insurance will not be decreased then?

Q. Did they say it would not? A. It seems to me they can do what they want. Those buildings were put up according to the plans and specifications filed in the different departments of the city of New York, and if it was good at that time, three years ago it was good, I don't see why I should be bothered now.

Q. What did they say would happen to the rate if you ran that party wall out; did they tell you how much the rate would be reduced? A. They told me it would be reduced.

Q. Did they tell you it would be reduced to what you were paying the last three years? A. They found other different things. They would only take the policy at the increased rate.

Q. You did not care to improve your property at all, according to these items that you mentioned? A. No sir; these buildings were finished; and I have a certificate of occupancy from the tenement and building departments of New York city and it was good three years ago; I don't see why it should not be good to-day.

Q. Have you any other property anywheres in that section? A. Yes.

Q. Have you had a similar experience with the rates on the other property? A. No, except as to my personal holdings, with furniture and stores, etc.

Q. Have your rates been increased there? A. Yes, sir.

Q. Have you got specific properties you can mention? A. When I lived in 1400 Eastern Parkway, that is off Pitkin avenue, my property was insured for 37 cents for three years, and when I moved to 570 Sutter avenue I had to pay 60 cents for the same amount of policy.

Q. For three years? A. Yes, sir.

Q. And were the buildings of the same character? A. The buildings are of a different character, but there is storekeepers again that are compelled to pay all kinds of prices just to get insured.

Q. Is that all? A. Yes, sir.

GEORGE TONKONOGY, called as a witness, being duly sworn, testified as follows:

By Mr. HURRELL:

Q. Where do you reside? A. Corner of Ralph avenue and Eastern Parkway.

Q. In Brownsville? A. Yes, this is Brownsville.

Q. Have you property insured that is located in Brownsville? A. I have, sir.

Q. At what place? A. At 159 and 161 Thatford avenue. This is a factory building. I owned this building for the last 12 years, and I built it, and when we finished that building we obtained insurance and we paid as high as $2.40 a year, but for the last six or seven years I paid $4.80 for one year. I wanted to find out what the cause of such high insurance was, and they told me I ought to have iron stairs, so I put in the iron stairs, and they did not reduce the insurance, however. So I again went to the companies and asked them why they did not reduce it, and they told me I ought to put in some hose throughout the building, so that in case of fire the fire can be extinguished in a moment by somebody in the building. This I did, and I went to the fire insurance company, and again they refused to lower the insurance.

Q. Did you go to the companies or the Exchange office, or your broker? A. My broker went to the Exchange office, and then they told, in addition to this, I must have some barrels, tin barrels in which to take up the various rags and rubbish. I purchased these, and then they ordered me to put in pails with water, and I ordered these. Still my insurance is $4.80.

Q. Just the same? A. Yes. I then again inquired of the broker, and he promised to give me the list, just exactly what they want now, so that there would not be any mistake about it, and I asked whether I can get that list, and he told me yes, provided I will pay the company a certain amount of money — I forget what it was — a few dollars, anyhow, so I paid them. Then he brought me a typewritten list, setting forth minor things which were necessary to do in and about the building in order to attain my object, but the greater part of the demand is that I put in a watchman day and night, and pay this watchman, and if I will have a watchman of this character, why then they will lower the insurance.

Q. How big a factory have you, how many stories? A. Four stories.

Q. Is it wooden or brick? A. It is brick.

Q. With wooden joists? A. Wooden joists.

Q. What is manufactured inside? A. Clothing; and I argued

with the company that to employ a watchman it will cost more than the insurance, but it was of no avail, so that all I have to do now is to insure any mortgage, and the building is practically without insurance, because if I should start to insure the building then I have absolutely nothing for my equity; 5 per cent for insurance, then I have got to pay about 6 per cent on the money for the mortgage and the high taxes. There is the building.

Q. So you keep it just insured for what it is worth? A. So I keep it insured for just the mortgage, and in case of fire I am at a loss.

Q. Was this factory building always used for the same purposes? A. Always for the same purposes.

By Assemblyman COLNE:

Q. You say that he charged you for this list of information; who do you mean? A. I mean the broker told me the company demands that.

Q. For information to put yourself in good condition? A. Yes, for giving me the schedules what I should do in order to lower the cost.

Q. They charged for that? A. Yes, sir.

Q. How much did you pay for it? A. I really cannot remember, but I can bring the amount.

By Mr. HURRELL:

Q. Who is your broker? A. I believe in that instance it was a man named Horowitz.

By Assemblyman COLNE:

Q. Let us get at it again. Do you think the company charged you, or the broker? A. The company charged you.

Q. The broker told you the company charged you? A. Yes. I know, as a matter of fact, that they do charge for that schedule.

By Mr. HURRELL:

Q. Have you any other property insured out that way? A. Yes, sir.

Q. Have you had similar experience with the other property?

A. The experience is this, that they would not take any insurance on the tenants' stocks, so that the tenants, of course, cannot keep the stores in the buildings.

Q. You mean, they would not take any at all? A. They would not take any at all.

Q. Did they ever assign any reason why they would not take any? A. No reason at all.

Q. Just simply the tenants could not buy insurance? A. Just simply they cannot buy insurance. That is the law of the Exchange and that is all.

Q. Have you any other buildings that you have any similar experience in, where you have had a similar experience? A. That was just my experience.

SAMUEL HODAS, called as a witness, being duly sworn, testified as follows:

By Mr. HURRELL:

Q. What is your business? A. Insurance.

Q. Are you an insurance broker? A. Yes, sir.

Q. Holding a certificate from the Exchange? A. Yes, sir.

Q. How long have you been in that business? A. Five years.

Q. Are you familiar with the rates in Brownsville? A. Yes.

Q. Are you familiar with the property of this last gentleman who was on the stand? A. What property was that? Thatford avenue, 259?

Q. He was talking of some property where the insurance companies would not insure his tenants. Do you handle any of his insurance? A. No, sir.

Q. What is your experience with the companies in their dealings in that section of the city? A. If you will make that question a little more specific I can answer it.

Q. There has been a district defined here as Brownsville; are you familiar with that district? A. Yes, sir.

Q. Does your experience teach you that it is true that the companies charge a higher rate in that district than the Exchange rates? A. In some particular instances they do.

Q. Have you any specific particular instance in your mind? A.

On household furniture in brick buildings and in frame buildings they charge more than the ordinary rate.

Q. They charge more than the Exchange rate? A. Yes.

Q. Have you ever had that explained to you at the offices of the Exchange why some of the companies charge a higher rate than the Exchange puts forth? A. They claim that the risks are not as desirable as other risks in other locations.

Q. Have they gone into that risk more fully? A. They have. They claim that the number of losses out there exceed the number of losses in other districts.

Q. And do the companies compete with each other for any of that business out there? A. Not very many companies are hungry for the business. There are a number of companies that take it, and some companies won't take them at all.

Q. What is the average excess that the companies collect out there over the Exchange rate? A. Well, on household furniture the Exchange minimum rate is 1 per cent for three years. In frame store dwellings the usual rates charged out there is from 1 to 1 1-2 per cent for one year.

Q. What companies do you do business with? A. I do business for a number of companies.

Q. Do you find difficulty in placing the insurance among the companies? A. Well, those risks that are in a good location, with buildings detached, and the section appears to be more favorable, we have less difficulty, in fact we have not much difficulty to place it at all. In other sections where the companies claim that the risks are not as desirable we experience sometimes a great deal of difficulty in getting insurance.

Q. What is your own opinion as an insurance broker about the risks which the companies are shy of; do you think that they are usually getting a good reason for being shy of risks? A. Most of the times they have.

Q. And the complaint out there is not that the Exchange has combined to force up the rates, but that the companies charge higher rates than the Exchange fixes itself? A. The rates prevailing out in that district is mutually agreed on by the companies, and they do not go in accordance with the rules of the Exchange; that is, they do not insure anything less than the minimum but they charge more than the minimum.

By Assemblyman COLNE:

Q. Now, you have some ideas of your own. See if I can help you along. Do you believe that this unwarranted, what you might term unwarranted, discrimination, which applies on this territory of Brownsville, is due to the fact that its inhabitants are Hebrews; let us have your honest opinion? A. I am not in a position to offer any of my own opinions.

Q. You have some thoughts on that matter, haven't you; what do you think? A. I don't know whether my opinion would be of great value; there may be some better authority than myself to offer an opinion.

Q. You have heard what the alderman has testified; he has shown a comparison with probably a more congested district in Manhattan. I know that district pretty well up there in Manhattan and I believe it is more congested; I know Brownsville, also. Haven't you some thoughts on the matter that it is probably due to this fact that I mention? A. The district is more congested, and there is some reflection cast upon the people that reside there, I must admit.

Q. There is? A. Yes, sir.

By Chairman MERRITT:

Q. Do you think that the figures that the alderman presented are accurate in comparison to the number of fires in the two localities? A. I have not looked up the records or the statistics, therefore I am not in a position to make any comment.

Q. You said the companies gave as a reason for the increase above the minimum that there were more fires in certain localities than others; has that been your observation? A. That was the claim. I cannot say whether it is true or not. I have not looked up the records, so I am not in a position to offer any statement.

MOSES TANENBAUM, called as a witness, being duly sworn, testified as follows:

By Mr. HURRELL:

Q. Mr. Tanenbaum, what is your business? A. Insurance broker.

Q. How long have you been in that business? A. The business has been established 51 years. I have been in it about twenty-six.

Q. What is your firm? A. I. Tanenbaum's Sons & Company.

Q. And that is the firm that has been established fifty years? A. Yes, sir. That is the firm would be. It was incorporated in 1901.

Q. You do business as insurance brokers, and what other line of business are you in, in connection with the insurance business? A. We install fire protecting appliances and fire resisting appliances and make contracts of insurance fixing a uniform rate for a given period of time with insurers.

Q. What is the capital of this corporation with which you are connected? A. $100,000.

Q. Will you describe to the Committee more in detail the contract you make with insurers? A. I will have to get some of my papers.

Q. I meant to ask you, Mr. Tanenbaum, you are here under subpoena? A. I am under subpoena *duces tecum*.

Q. And have you brought some papers that I requested you to bring here with you? A. Some I brought and others I have not.

Q. Before getting them out, just state to the Committee — I am not so anxious to have the Committee understand the particular way in which you connect this installation of fire fighting apparatus with your fire insurance business? A. A merchant or a manufacturer, an applicant for insurance, who is either unable to procure adequate insurance, or insurance at a rate apparently satisfactory to him; or a merchant or manufacturer contemplating the construction of a large manufacturing plant, will call on us and ask us in what manner he should construct the building, and what fire appliances he should install, and if installed, at what rate we should furnish him a contract, naming a uniform rate for a fixed period of time. A great many merchants and manufacturers have not sufficient capital to install automatic sprinklers or automatic alarms or such fire appliances; or, where the building is already constructed, and the area is large, and there is no dividing wall, or the floors are weak, or the nature of the hazard is severe, a merchant may say that he requires his own capital for the conduct of his own business, and if we care to take

that building in the condition as it exists at the time, and at our own cost and expense, and install whatever appliances we deem essential, both for the protection of property, and life, and towards the reducing of the rate of insurance, and in securing for him adequate insurance in responsible companies, we make a contract. Take a building that is 100 feet front by 200 feet deep and four stories high, and 20 or 30 years old, and we take and reconstruct the roof and put in a new brick front where it is frame or remove a mansard roof; we will brick up the elevators; enclose the stairways in brick; put in dividing brick walls; place automatic fire doors cutting off each floor from the adjoining owner or connecting owner, and then we install sprinklers, fire hydrants, chemical engines, or whatever we deem essential for the protection of that property, subject to his agreeing to place with us his insurance for a fixed period of time, at a rate that we agree upon and with a provision that at the end of the term, for a nominal consideration, or without any consideration, these appliances revert to him, if he is the owner of the building, and during that time he is able to calculate the exact cost of his insurance at the price that we name, so that he can figure that out the same as he can any other ordinary expense. We take that building and then place it in a condition so it can procure insurance, and we seek the insurance market and buy the best indemnity we can at the lowest price, and charge the man with whom we made the contract the fixed price.

Q. And who pays the premiums? A. We pay the premiums and charge him the premiums that we agreed upon between us.

Q. Your agreement simply covers the premium which you obtained? A. Yes, sir. We buy that insurance and sell it.

By Senator COLNE:

Q. Is the policy in his name or yours? A. The policy is made in his name.

By Mr. HURRELL:

Q. That is to say, you take a merchant whose rate is $1.50, who has not equipped his building as he might, in order to get a lower

rate—— A. (Interrupting) I will illustrate by the previous witness.

Q. (Continuing) Yes, just wait a minute. And he does not want to spend his money putting in costly equipment in the building. You know exactly what you think you can reduce that rate to by the installation of this equipment, and make a contract with him covering say ten years in which he agrees to pay you a less rate than $1.50, and paying you that less rate than $1.50, you go, at your own expense, put the equipment in, and if, we will say, your contract with him is a dollar, he saves the fifty cents, and if you can improve that risk so you get the risk for sixty cents, your profit is the difference between sixty cents and the dollar, less the expense of putting in the equipment. Is that right? A. That is an illustration. That is correct.

By Senator Colne:

Q. Now, Mr. Tanenbaum, if you take the case with the front of a frame house, and remove it, and put up a brick front, do you cover that all in this one contract with him, or don't you make some separate contract for you to be recompensed for the building of that wall, rather than run it into the insurance end of it? A. No. We take the man's building which requires altering. Part of his building may be weak and part may be strong. Frequently in installing a sprinkler system, the weight of the tank, with 10,000 gallons of water in it, steel tank—the weight is probably 120,000 pounds. That would be sixty tons. Now, the ordinary building, 25 or 30 years old, would not hold the weight of that tank, so we have to build down sometimes, from the foundation up. If it is a frame wall, we would have to replace it with a brick wall to get substantial support.

Q. Just under the tank? A. Well, along the entire length of the tank, so we get no benefit by the change of that wall from frame to brick, but we require it in order to furnish proper protection. In other words, the building departments of the different municipalities would not approve that tank being constructed there unless built in conformity with their laws. Now there are a great many conditions that might arise. We might have to remove some wooden posts and put steel or iron ones in or put additional

supports, and those are the conditions we cannot tell until we go to make these changes or alterations.

By Chairman MERRITT:

Q. It did not follow that your contract with the owner of the property would be for a less amount than the rate of insurance. That is a matter of negotiation, apparently. A. We have generally given the insurer the benefit of the reduction in the rate, until the New York Fire Insurance Exchange passed a ruling here which counteracted our privilege of doing so. But prior to that, prior to 1901, why, we would make a contract with a man at what we thought was a fair rate, leaving him an equity in the saving of the cost of insurance, and still leaving us a margin of profit after spending the amount of money we contemplated in the construction of these appliances.

Q. What rule do you refer to? A. That is a rule. I am not—I will have to look——

By Mr. HURRELL:

Q. I was going to ask you after a while, and we will get it out, you say you installed this fire fighting apparatus at your expense? A. Yes, sir.

Q. And you have a certificate from the Fire Insurance Exchange? A. Yes, sir.

Q. I will read this ruling, that I will ask in reference to later. This rule was put forth on the 28th of May, 1902:

"From and after 12 o'clock noon of May 28, 1902, if any automatic sprinkler or automatic fire alarm, or any other fire extinguishing, fire signaling, or any other appliance or improvement whatever, installed in or pertaining to any risk, be owned or installed at the whole or partial, direct or indirect expense of any person, firm or corporation holding a broker's certificate from this Exchange, it shall be deemed a rebate and a violation of the broker's pledge."

Now, that looks as though that rule was aimed directly at your business? A. That was a courtesy extended to us by our competitors who were then members of the committee of the Exchange.

Q. That is the Exchange rather objected to you improving risks in the way you have stated here? A. Yes, sir. Well, I was not aware of that rule in this language until my attention was called to it. Now we have, since that time, installed appliances contrary to that rule.

Q. Yes. What I am coming to, Mr. Tanenbaum, is: That the rules of this Exchange are supposed to be enforced, and I want to know if this is a rule of the Exchange how you got by it? A. Well, we charged the parties with whom we made contracts the prevailing gross rate that existed on that risk at the time our contract was made, and the parties with whom we made the contract received no benefit of the reduction in rate.

Q. Now, let us go back to get my $1.50 illustration of a minute ago, so we can get it concretely. Assume a risk is rated here at $1.50, and the best that can be done for that risk in reducing it according to schedule is to get it down to a dollar? A. Yes, sir.

Q. You cannot furnish insurance to that man at any less than one dollar under the rule of the Exchange now, is that right? A. Less than $1.50.

Q. Less than $1.50? A. That is right.

Q. Can you do any business, then, by installing these devices, if you cannot reduce that rate down from $1.50? A. We can do some business, but cannot do enough.

Q. What is the advantage of doing any business under that system? A. Many a merchant is unable to procure adequate insurance, even if he paid the $1.50 rate, and he is perfectly willing to secure adequate insurance, without the equipment costing him anything, to permit us to do so, but there is not much advantage to it. We cannot charge him, under that rule, or Exchange agreement, as I interpret it, we cannot make any contract to do it at any rate except that in force at the time the contract is made.

Q. So the Exchange has you tied up so you cannot reduce rates by these devices? A. Yes, sir.

Q. Do you do any business outside of New York city? A. Considerable of it.

Q. Are you tied up that way anywheres else? A. No, sir.

Q. Have you got any concrete examples you can give the Committee of the ultimate benefit to the owner in this method of yours? A. I have some. Take a plant at Avondale, New Jersey; frame

building, which was occupied as a cutlery works. In 1890 the owner of that property was unable to procure adequate insurance. He sought the Newark market, and he sought the Paterson market, and he was asked three or four dollars a hundred, and by soliciting insurance from every broker and every company he finally procured, or at least secured, about eight or nine thousand dollars insurance on a value of about $90,000. The property was totally destroyed by fire, and he recovered $9,000 and lost $81,000.

About four or five years after that the man became embarrassed and several of his creditors consulted with us on the matter, and we assisted the man towards rebuilding part of his property, and installed a sprinkler system, costing us about nine or ten thousand dollars; made a contract with him covering a period of twelve or fifteen years, charged him a rate of $1.75, and he secures all the insurance he requires. That same fire protection has subdued and stopped six fires in their infancy in the last two years, at a loss less than $100 in any one case. So the man is able to procure all the insurance he requires; he saves about $2.25 in his insurance, and is doing a large business in his line.

We have a case of a department store in Paterson which leased and then purchased a large building, formerly occupied as a town hall, for dances and concerts. The building covered an area of 180 feet front by 240 feet deep, six stories high. There were no dividing walls, and it was altered into a department store. He was unable to secure insurance in excess of from $150,000 to $200,000. We examined the premises, made such alterations and improvements as we thought advisable; installed sprinklers, and furnished insurance of $400,000 or $500,000 at $1.45, where prior he was unable to contract the insurance wanted at $4 a hundred. We saved them up to the time of the conflagration at Paterson — why, we saved them at the rate of about $6,000 a year. Figured conservatively, for a period of eight years, up to the time the property was destroyed, we had saved $50,000 in cost of insurance, and this property was destroyed in the conflagration at Paterson, and when it was rebuilt we entered into a new agreement, which is now in existence between us.

Another concrete illustration is a paint works at Bound Brook, New Jersey. That was a property constructed entirely of several

frame buildings adjoining it and connecting, and others from ten to twelve feet away from the main building. I think I have a diagram of it here.

Q. Have you got it there? A. Yes, sir.

Q. Proceed with your statement? A. This property in 1891 was composed of several frame buildings adjoining and connecting and manufactured paints and fire-proof roofing; apparently assumed to be fire-proof, but the oils and other ingredients required in the making of it so far as manufacturing is concerned, were more or less combustible. They sought us, and upon investigation we found the nature of their business very hazardous, and in investigating further we found they had about $20,000 insurance on the plant, on which they were paying $8 a hundred. Of that $20,000 insurance, $8,000 of it was in companies, irresponsible, with actually no existence except offices in the Rookery Building at Chicago, and when transmitting those policies through the mail they were returned with "No such address." We installed appliances in this property, which had materially increased in value, and entered into contracts which had been renewed from time to time, and this concern now carries about a million dollars' insurance and pays us about $1.75 a year, against a former rate of $8.

We have saved that concern in nineteen years $300,000 in cost of insurance. They have had four or five nominal losses there, which the appliances we have installed have checked from making any progress.

The case I spoke of a few minutes ago, the cutlery plant at Avondale, New Jersey, is in a town that has very little fire protection. Here is the illustration of it (handing a paper to Chairman Merritt).

I want to qualify my previous statement. The original fire which destroyed this man's property embarrassed him, and caused him to go into bankruptcy. He was unable to pay his debts, and was compelled to seek an extension from his creditors by reason of his inability to get insurance at that time. The next case I want to illustrate is a plant known as the Federal Match Company, at the outskirts of Paterson, New Jersey, where matches were manufactured, which, in itself, is very hazardous business. That corporation was organized to compete with the Continental Match Com-

pany, a trust, afterwards absorbed by the Diamond Match Company. By reason of the enormous pressure of the Diamond Match Company and its agents, this concern was unable to procure insurance, and prohibited from manufacturing matches because the property which they had leased belonged to the Dunn estate at Paterson, a reputable attorney representing them, and they would not permit them to manufacture matches until the Federal Match Company could furnish them policies of insurance on the buildings. This was so as to protect their mortgages. The least rate that they were able to procure was $10 a hundred, and at that rate they could not secure over two or three thousand dollars insurance.

We entered into an agreement with them and made a contract to install all appliances at our own expense and guarantee them insurance of $60,000; to furnish them the insurance at four per cent. During the period that they were in existence they had one or two incipient fires, which were held in check by the sprinklers, and we saved them at the ratio of between four and five thousand dollars a year. The plant was afterwards absorbed by another concern.

I have an illustration at Newark, New Jersey, of a corset concern which was unable to secure sufficient insurance as far back as 1890 or 1891 or 1892, except at arbitrary rates. It was a part of Newark which was on the hill, and the water supply was very weak. We installed appliances there, and the property increased in value in additions that were extended to it, and we installed sprinklers in the property and made a contract with them, which was continued. We had some difficulty procuring the insurance from the stock companies, and consequently we placed it in mutuals, and we made a contract with that concern, which we just renewed, furnishing insurance in mutual companies, so the insurance cost them thirteen and one-half cents. The risk has been approved since then, and the stock companies were willing to underwrite it, and it is now known what we call a factory mutual risk.

Q. Now, before the organization of the Exchange, did you do that, or did your firm do that same kind of business in New York city? A. Yes, sir.

Q. And without being interfered with by the companies? A. We were encouraged by a great many of the companies.

Q. Now, you do business in other States than New Jersey, do you not? A. Yes, sir.

Q. New York? A. New York, New Jersey, Massachusetts, Connecticut and other similar States.

Q. All the surrounding country? A. Yes, sir.

Q. That is, within easy reaching distance of New York? A. We do some business further away. We do some south and southwest on the same plan.

By Chairman MERRITT:

Q. Do you do business in New York State outside of the Metropolitan district? A. Yes, sir.

Q. The Underwriters' Association does not interfere with you up State? A. They do not. This is the only district, the New York Fire Insurance territory is the only territory where there is any rules which hamper our facilities of doing business or benefiting people.

Q. Are there other firms or companies doing a similar business to yours? A. There have been quite a number of them. There are not so many in existence now as there were originally. There were originally about a dozen of them, and there are possibly two or three.

By Mr. HURRELL:

Q. And in conducting your business you have to figure up your profit on where you can put the rate through? The difference between that and what you get from the assured after you get through improving his risk? A. We have to figure the same as a business man; the probable cost and our possible outlay.

Q. And, of course, that leads you to deal only with firms that have a substantial credit rating, does it not? A. We discriminate concerns that are perfectly responsible, and that is the reason that so many of these concerns that were conducting the same class of business are out of business.

Q. Have you anything besides your opinion as to why the Exchange sought to hamper you and absolutely prohibited you from doing that business in New York city? A. Well, I have nothing beyond my own views and discussions with several of the officers of the Exchange and some of the companies.

Q. Did they ever figure out to you, anywheres near your satis-

faction, why that was a rebate? A. They have not except their theory. The only theory they expressed was upon the theory that we installed appliances and some other broker, of less repute, might use that as a medium for finding an excuse of giving rebates on household furniture policies or some other manner of risk.

Q. You never had any objection, did you, or did you have objection, to the Exchange knowing exactly what rate you were charging a man, and what rate the company was charging on policies? A. No. That became a matter of record, because we had considerable litigation here at one time.

Q. I wish you would, if you will, tell the Committee just the struggles you have had trying to do business here? A. We conducted successfully business in this market, and installed these appliances for a period of about twenty years prior to the organization of the New York Fire Insurance Exchange, which was in April, 1899, and during the period of two previous organizations of a similar character. One was called the Tariff Association, which was organized in 1891, and disbanded in 1898, and one an association organized in 1886, which lived about six or eight months, known as the — I do not remember distinctly the name. None of those organizations objected to the method of our conducting business, and we conducted business on the same lines during the entire period.

When this organization was formed, it was after — these brokers' licenses or certificates was made a part of their agreement upon the theory that they would, the insurance companies among themselves, being jealous of one another, in securing good business, were unable to maintain good faith amongst themselves, unless they were able to control the insurance brokers, who were an important factor in this market; that the previous organizations of a like character were disrupted by the insurance companies themselves not keeping faith with one another. The companies seeking a good class of business, or preferred business, were offering brokers inducements, or excessive commissions, or profit on their underwriting and a share with any specific class of companies who desired business, and it therefore became difficult for the companies to organize an association in which all the leading companies, the Continental not being a member of one of the previous ones — would join the organization, unless they could control the brokers, and they thought that the only

way to control their own members was to put a whip on the broker by compelling him to agree not to accept a greater commission than that allowed by the Exchange to the broker, and agreed further not to deal with any company unless it was a member of the Exchange.

They disagreed among themselves as to the form of pledge they desired the broker to sign. The first pledge they wanted signed contained an agreement that the broker shall obey the rates and rules of the Exchange. In a discussion with some of the members I asked them to define how a broker could observe the rates and rules of the Exchange if he was not familiar with the rates and rules and was not a member of that body, to which the gentleman told me very distinctly that they disagreed on that clause, and that they wanted to maintain a control over the brokers, so they could maintain their own members, fearing, if the broker was not controlled, the excessive commissions they were allowing on what is termed preferred business would be a medium for the broker to divide that commission with his principal, and thereby their own members could not, in seeking business, those that were not acting in good faith, secured a preference on a certain class of business that apparently was profitable to the companies. That then led up to the same agreement to the brokerage pledge with the one that is now in force, and the companies formed committees in rotation, each class of committees having in their body gentlemen who, besides being brokers, are agents of companies, and at the same time conducting a brokerage business, insisting that the brokers should be controlled by the companies to the extent that they would not compete with these agents in soliciting business of the community in general, thinking that the agent naturally would profit in the excess between the commission that they were paying the broker and the commission that they were receiving, known as an overriding commission from the companies, and irrespective of any formal explanation that was given to me by the gentlemen on the committee, they found it was necessary to secure the unanimous consent of all the companies in promulgating this organization which adopted these rates, rules and conditions, and this brokerage pledge was demanded of every broker before they would grant him a license to conduct business.

The one clause in the brokerage pledge, if you will read it, you will notice that the broker is offered an inducement of five per cent by extending preference to members of the Exchange. In other words, to bribe or buy the broker, they offer him five per cent greater commission to deal only with the members of the Exchange.

I stated at the time I thought that was unlawful; that that was an act in restriction of trade, and which opinion has applied to that for there were no companies not members of the Exchange, and that has been the fact. There are no companies doing business in the city of New York, or I doubt if there is any company that could successfully conduct business in the city of New York to-day, unless they first became members of this Exchange. Whether they desired to become members or not, they were coerced, anyway.

Q. How soon after this took place did your troubles with the Exchange begin? A. Immediately after the Exchange became an organization we were requested to sign a pledge, and we placed ourselves in communication with the Exchange, and stated in writing that we had no objection to maintaining, or offering to agree not to give any rebate or not to rebate any portion of our commission; that we, however, had a large number of outstanding contracts, made in good faith, with the people of New York city, the jurisdiction of the Exchange. That many of these rates were far lower than the rates now in existence and promulgated, and that these contracts have been held by the courts as valid, and we did not see how we could sign that agreement without being aware of the fact that we had outstanding contracts, made at less rates than the rates now promulgated, which contracts we were bound by law to maintain, and which we would.

Q. That is to say, you were in for losing money? A. We were in for losing money.

Q. Because you had contracted to give a number of insurances at a certain rate, and you had installed their equipment at your expense, and now the rates were going to be changed, so that you still had to keep your agreement with the insured, and you might be charged a higher rate than you were getting, and collecting from the man? That was the idea, was it? A. That covers the ground. We were perfectly willing to pay the market or Exchange rate, and fulfil our contracts and bear our losses.

By Senator Colne:

Q. On new business? A. No; old business. We had outstanding contracts covering ten or twenty years. I did not want to be charged that I was signing that agreement in bad faith. I wanted them to become familiar with the fact that I would keep a contract that the courts had held to be valid, and in all my correspondence I received no reply which permitted me to maintain these contentions, and the company's answer was that they would not permit me to carry out these contracts, and the carrying out of these contracts would be in violation of the Exchange rule.

By Mr. Hurrell:

Q. What then happened? A. We turned the matter over to our attorneys and considerable correspondence occurred between the members, the then manager of the Exchange, and our counsel applied to Judge Bischoff for a permanent injunction restraining the Exchange from interfering with our business. That injunction was denied on grounds I am not familiar with. Our counsel is in court now, and during that period every effort was made by a certain class of insurance companies and brokers to raid our business and prevent our carrying out our contracts. We, however, went into the open market and bought the insurance at the Exchange rate, filled our orders, and lost money at it, and received no commission for the period of two and one-half years, when the case was closed, after being called for trial.

Q. That is, you did not get a temporary injunction, but the case was on —— A. (Interrupting) Judge Bischoff denied the temporary injunction on conditions which I am not familiar with.

Q. Then the case did not come to trial for about three years? A. The case did not come to trial for about two and one-half years, and during that period we conducted business, filled our orders, carried out our contracts, transacted business at a loss, without receiving any commissions, and close to the issue being ready for trial, some negotiations occurred between our counsel and the members — I am not distinctly familiar with them now, and I think in the latter part of 1901 we received a certificate from the New York Fire Insurance Exchange.

Q. To make a long story short, the thing dallied along before the trial and then you did not have a trial, but you got a certificate? A. I think we were ready for trial. I do not know why we did not have a trial.

Q. The point was you received a certificate? A. We received a certificate. We were asked to apply for a certificate, and we applied.

Q. You were asked to apply? A. I think our counsel advised us to apply.

Q. You had, of course, applied in the beginning? A. No. We did not apply, because we could not receive a ruling whether our action of maintaining our contracts was a rebate under their rule or not.

Q. You were in a condition of mind where you concluded that it would be a vain act to apply, didn't you? A. We were.

Q. Have you had any difficulty since then in having this certificate renewed from year to year? A. Eight years. Our certificate expires — why, I think about two or three weeks before it expired we forwarded the Exchange our check and requested a renewal of our certificate.

Q. That is the ten dollar fee? A. Yes, sir. The fee was less. I think it was $5 until last year, and then it became $10. This year we applied for renewal of our certificate, and there was some correspondence. I prefer not to refer to it.

Q. Have you got the certificate yet? A. We have not received the certificate.

Q. Here is, you say, correspondence. Is there anything peculiar about the case that you cannot get a license by tendering your fee? A. We transmitted our check for renewal of our certificate, and we have not received the certificate yet, and there has been considerable correspondence.

Q. How long ago did you do that? A. I think we corresponded with them far back in the early part of November, and the certificate expired on December 1st.

Q. So you have not got a certificate now? A. We have not received the certificate yet.

Q. What is the delay caused by, anything serious, or just in the course of business? A. It looks to be serious.

Q. What is it? A. The committee, called the brokerage committee of the Exchange, withheld the issuance of the certificate, but I received some assurance that there would be no difficulty about the matter, but I would prefer not to refer to it.

Q. We are interested, of course, in finding out exactly how the Exchange is doing business. Now, you have had trouble with the Exchange in times past? A. Yes, sir.

Q. And you have been shut out of this market from improving risks, by the Exchange, in the way you do in any other cities? A. Yes, sir.

Q. Now, the Committee will want to know exactly what the trouble is this year, or if you are going to have this trouble right along? A. My counsel is in court. If he advises me to answer the question I will do so. (After consulting with counsel.) He advises me to do so.

Senator Cōlne: It may be refused again even if you get it now.

By Mr. Hurrell:

Q. What is the correspondence, and what trouble are you having this year with the Exchange? A. I think briefly — I have the correspondence — I think in brief this is the entire correspondence as it stands at the present time (producing papers).

Q. Without going into it in detail, it seems to be quite a little bit, can you tell us what is the trouble? Why didn't they give you a license? A. The New York Fire Insurance Exchange gave a notice on November 5th, it is a printed notice, signed by Mr. Willis O. Robb, as manager, and I think he pointed to the following clause: "Please furnish us with the list of present shareholders of your corporation, and business of each shareholder other than that of fire insurance." This led to the correspondence and caused the withholding of the Exchange certificate. I think if we would furnish them with this information, I am inclined to believe they would issue the certificate.

Q. You refused to tell the Exchange who your stockholders are? A. I did.

Q. And what is the last letter which you have got from the Exchange there? A. (No answer.)

Q. Mr. Tanenbaum, is there any rule of the Exchange that you are familiar with that requires a corporation having a certificate to place on record with the Fire Insurance Exchange the names of its stockholders? A. I know of none.

Q. No rule? A. No rule.

Q. This seems to have developed in the minds of the brokerage committee, does it? A. That is all, it is an arbitrary rule of the brokerage committee.

Q. I read into the record a letter dated December 6th to I. Tanenbaum, Sons & Company:

"Gentlemen: The members of the Committee, at the extra meeting of Thursday, the 15th, gave careful attention to the contents of your communication addressed to the New York Fire Insurance Exchange under date of December 13th, 1910, and instructed me as chairman to write to you to the effect that the Committee cannot continue the certificate in the name of your corporation from December 1st, 1910, unless it is furnished with a list of the present shareholders of the corporation, I. Tanenbaum, Sons & Company. The present members of the Brokerage Committee do not feel that they could be in any manner justified if they issued certificates to names without knowing the personal ownership of the certificate. Yours respectfully, C. T. Garthwaite, Chairman Brokerage Committee." Now, you are asking for the certificate, I presume, in this correspondence for I. Tanenbaum, Sons & Company, a corporation? A. Yes, sir.

Q. That is the way in which the Exchange certificate had been made for some —— A. (Interrupting) Ten years.

Q. And now they want to find out who may happen to own your stock before they will issue the certificate? A. Yes, sir.

Q. So it looks as though you were going to have another law suit before you could get your certificate, does it? A. It looks that way. Those are the conditions on which the certificate is issued (showing a paper to Mr. Hurrell). That is the back of the old certificate.

Q. There is no agreement that you ever signed to the effect that you will disclose your stockholders if you do not want to? A. No, sir.

Q. Was it never mentioned before? A. No, sir.

Q. Well, what is your best information as to why the Exchange takes this attitude now? A. Well, the explanation, the only reason I can surmise is that they have been criticised by a great many of their members for granting certificates to a class of men who were not conducting an insurance brokerage business, and there were quite a number of men who applied to the Exchange for certificates who were real estate clerks, officers of trust companies, clerks of insurance companies, real estate holders, lawyers, clerks and others who have been securing certificates and receiving the benefit of the Exhange commissions.

Q. Well, how does that apply to this case? You are not any of those things, are you? A. No; not quite. We do not occupy that position, but the brokerage committee is trying to smooth over several of the severe criticisms they have met with in the past; and the committee are endeavoring to find some reason why a corporation does not receive a certificate unless they receive a list of the stockholders and know who the individuals are.

Q. That is, they figure it out that some of the stockholders may be some of the personalities mentioned by you and so be indirectly getting their dividends in their part of the commissions upon the properties that they insure through your corporation? A. Yes, sir.

Q. You think that is the idea? A. I think that is it, but as a matter of record I have no hesitancy in saying that there is no stockholder in our corporation who is interested in any line of business other than that of insurance. The stock is controlled by five individuals, of which I control ninety-nine per cent.

Q. Are any of them, any of the stockholders, licensed brokers? A. No, sir; none. Two of them are my sons and one is secretary of our corporation, and one holds a share, extending him sufficient authority to become an active director of the corporation. The corporation is practically controlled by my own sons and myself.

By Judge Bruce:

Q. Has any of them ever held a license or certificate from the Exchange? A. No, sir; not outside of the corporation.

Q. None has ever been revoked? A. No, sir; there were no charges at any time against our corporation.

By Mr. HURRELL:

Q. Do you honestly believe you are going to have a law suit over that? A. No, sir.

Q. Why not? A. Not while this Committee is in session.

Q. When did the Committee go into session? A. Well, it has been in session sometime now; I think about two months. I do not think there is any more likelihood of there being any law suit during the continuation of this investigation ——

Q. (Interrupting) Of this Committee? A. Yes, sir. This Committee. I will go further than that. I will be fairer and broader. I doubt if the executive officers of the Exchange, or the men that rule over the Exchange and are familiar with this controversy, I doubt if they would sanction the acts of the brokerage committee.

Q. They have sanctioned the prevention of your reducing the fire waste, as you have, across the river? A. Yes, sir. I think that a great many of these gentlemen are members of this Exchange as a matter of policy, for New York city makes it important to maintain rates. New York city is an important factor in the maintaining of rates, and as an individual they would prefer the open market than the closed market.

Q. You think they are controlled by a machine that has gotten to be even bigger than they are? A. I think they want to control the rates, following the principle that the way New York goes, so goes the country, and I think they want to follow that same principle here.

By Chairman MERRITT:

Q. They have testified that they want everything done that can be done to diminish fire risk. They make an exception, apparently, of your way of doing it? A. It looks that way. I think that, as a rule, this New York Fire Insurance Exchange has done a great deal of good, as far as reducing fire hazard is concerned. I believe, however, that a great mass of the officers of the companies who control and manage intelligently organized institutions, would be able to control the business without a close corporation.

By Mr. Hurrell:

Q. They would be. A. They would be. You have plenty of illustrations where they do.

Q. Now, do you think, Mr. Tanenbaum, that this particular thing could, or ought to be remedied by the Legislature? Do you believe that the State should license brokers instead of the Exchange? A. I do. Most of the States — Massachusetts, New Jersey, Pennsylvania, Illinois, and practically have only a limited number of brokers to deal with, because this is the only market where the brokerage conditions exist, and control the bulk of the business.

Q. You have a brokerage certificate in some of these other States, have you? A. In every State where we transact business where the insurance department issues them.

Q. Do you object to saying what your premium income in your office is? A. I might state approximately.

Q. Approximately? A. It is over a half million dollars.

Q. That is in all of the surrounding countries as well as in New York city? A. Yes, sir.

Q. Now, in working as you do where you take contracts and improve risks, and thereby get a lower rate, do you come in competition with the mill mutuals? A. We do.

Q. What is your opinion of the mill mutuals? A. That they are very intelligently handled as a rule, and I think that the mill mutuals pick out the choice of the business, and leave the stock company the poorest end of it wherever they can possibly get control of it.

Q. Do you see any possible objection to allowing mill mutuals to come into this State? A. Not if they are placed on a parity with the stock companies.

Q. You mean by that if they pay the same tax? A. I think of mill mutuals the same as I do of the underwriters or inter-insurance bodies; they ought to be placed on the same basis and under the same conditions as stock companies. I do not think the mill mutuals ought to have any advantage over stock companies who pay taxes here.

By Chairman Merritt:

Q. Mill mutuals have objected here to having the taxes which they might pay, if they had to pay a tax, divided up into the various

municipal districts where the property insured by them is located. What do you think about that objection? A. Why, I think they ought to pay taxes in the same manner as stock fire insurance companies. The mill mutuals places insurance on property in New York city under the control of the fire department in New York, and if there should be a riot, or any labor troubles, and their property was destroyed by fire, under the subrogation of the standard fire insurance policy, they could reasonably hold the municipality for the recovery of their losses. Now, since they have the protection of the fire department, they ought to assist towards the taxes of the management of the city.

Q. The expense incurred by them in making these reports would be no more serious than the expense incured by any other company making them? A. The Factory Insurance Association takes business throughout the United States, except in New York where it is restricted from doing so by the Exchange rules, and is capable of underwriting and competing with the mill mutuals. The advantage the mill mutuals have is that there is a school or class of companies, fifteen or twenty companies joined together, who have one inspector, and have one adjuster, and a limited number of officers and consequently they can combine and underwrite a large risk at a lesser expense than fifty individual companies can.

Now, the Factory Asociation is composed of twenty-one companies, and their expense is as low in proportion to their underwriting as the mill mutuals are. And if the restrictions were removed from the Exchange and surrounding conditions, there is no reason why the Factory Association could not furnish insurance as low and as safe to the insuring public as the mill mutuals do.

By Mr. HURRELL:

Q. Do you know the amount of risks approximately that the mill mutuals carry — you do business throughout the State, do you, you are in competition with them? A. Yes, sir.

Q. What amount of property do you suppose is insured by the mill mutuals in this State now? A. I should judge anywhere between $250,000,000 and $300,000,000, all told.

Q. And they pay no taxes at all? A. No, sir, no taxes.

Q. You have spoken of the factory insurance associations as not

being permitted to come into New York city; first of all, what is the factory mutual association? A. The factory insurance association is a number of companies, insurance companies, combined together for the purpose of competing with the manufacturing or mill mutuals outside of points in certain congested districts.

Q. When you say combined together, you mean they have adopted the method of the mill mutuals to reduce the cost of doing business, and in adjustments, etc.? A. Yes, to reduce the cost of conducting business. Their headquarters are at Hartford, Connecticut.

This factory insurance association, you mean by that that this association is composed of various stock insurance companies? A. The factory association is composed of 21 reputable large companies, members of the New York Fire Insurance Exchange in New York city, and within the jurisdiction of the Exchange, and follow the rules of the Exchange.

Q. And in their place they have an association with 21 members that maintain an inspection bureau to inspect and compete with the mill mutuals? A. Yes, sir.

Q. Upon outside non-conflagration risks? A. Yes, sir.

Q. Now, what can you say as to the rules of the Exchange keeping the factory insurance association out of New York city, so that it cannot compete so as to get a rate down? A. We control quite a large number of risks which we have under old contracts, and which we desired to place with the factory insurance association.

Q. That is, in New York city? A. Under the jurisdiction of the Exchange. We asked for relief from the Exchange to permit those companies, the factory insurance association, from underwriting these risks. The factory insurance association, through its manager in Hartford, was willing to underwrite these risks, and is only prevented from doing so by the obligation of the individual companies as members of the Exchange from competing for these specific lines of business.

Q. In the first place, how do you know that the companies would do this but for the arbitrary action of the Exchange? A. Why, I have placed myself in correspondence with the factory insurance association and with the New York Fire Insurance Exchange.

Q. I think I asked you; these risks are in New York city? A. Yes, sir.

Q. Under the jurisdiction, as you said, of the Exchange? A. Yes.

Q. Have you got any correspondence bearing on that subject? A. Yes.

Q. Just let me see it, please. I ask you, Mr. Tanenbaum, if this letter which I read is the letter you sent to the Exchange under date of September 30, 1910: "The New York Fire Insurance Exchange. Gentlemen: We have several risks within the jurisdiction of your association and which, on account of the quotations named by you and the conditions demanded, we know we will be unable to hold; the rates named by you are not sufficiently low to meet the competition of the associated factory mutual insurance companies. Several of these plants have been with the mutuals for many years past, and we have endeavored to secure their return to the stock companies. We feel quite confident, from information in our possession, that the factory insurance association of Hartford is capable of naming sufficiently low competitive rates to secure the lines. We are therefore submitting, partly at their suggestion and of our own accord, these lines to you, requesting your consent in permitting the factory insurance association to inspect these risks and name a rate in competition with the associated factory mutual companies. Thanking you to be good enough to submit these lines to the proper committees for immediate attention, we remain, very truly yours." You sent that letter to the Exchange, did you? A. Yes, sir.

Q. I ask you if this is a copy of the Exchange letter to you, under date of October 3d, 1910: "Messrs. I. Tanenbaum, Son & Company, Gentlemen: Your favor of the 30th ult. is at hand, suggesting that, as a practical way of enabling stock companies to meet mutual competition for certain risks in this territory, the factory insurance association be allowed to inspect such risks and name a competitive rate, instead of having the business handled as now, only through Exchange members and at Exchange rates, if at all. We would call your attention to the fact that the companies comprising the factory insurance association are all themselves members of the New York Fire Insurance Exchange, and thus bound by the terms of the Exchange agreement, which could only be modified by unanimous consent, first, not to issue policies in this terri-

tory, except through Exchange members; and, second, to issue such policies only at Exchange ratings. This situation seems to render it quite impossible to bring about the change of method suggested in your letter. At the same time, your communication will be duly placed before the proper committee of the Exchange for consideration and action. Yours very truly." This correspondence shows you, does it, that the companies, members of the factory insurance association, and members of the Fire Insurance Exchange, were willing that they should get the permission of the Exchange to enter into competition with the mill mutuals for improved risks in this city? A. I so interpret it.

Q. In New York city? A. Yes, sir.

Mr. HURRELL: I will offer the whole correspondence in evidence while I do not care to take up the time now to read it all.

The WITNESS: Mr. Hurrell, there is in this market here, under the jurisdiction of the Exchange, possibly $50,000,000 of insurance now carried in the mill mutuals under the jurisdiction of the Exchange.

Q. Just what class of property is that? A. All manufacturing property. Some of it is isolated, and some of it is just on the borders of the congested centres. There are the hat factories; I have quite a list of them here. The bulk of that is carried by the companies known as the Boston Manufacturers Mutual, and the Arkwright — I think one of the gentlemen testified here last week, and this business is written by correspondence which passes through the mail, so it does not violate any statute of the insurance law of this State.

Q. Yes, but I had not understood that the mill mutuals were in the conflagration districts at all? A. They are on the borders.

Q. They are willing to go in? A. They are not willing to go in the congested districts, they are right on the borders; but you must consider the congested centre of New York differs considerably, according to them, from the way the mill mutuals interpret it, on account of the water supply and otherwise here in Manhattan from what it is in Brooklyn, where the Knox hat factory and several other plants are subject to congestion.

By Judge BRUCE:

Q. But all within the Metropolitan district? A. Yes, sir.

By Chairman MERRITT:

Q. You have got a different definition of a congested district from the accepted one? A. Yes.

By Judge BRUCE:

Q. Are they from Chambers street to 14th street? A. They have some lines on the borders. I think the Western Electric Company on West street, and they carry some mills on 10th avenue, and they carry some property on certain parts of the east side, which are subject to conflagration. They are not what you call the dry-goods district.

Q. These are all sprinklered risks? A. They write only sprinklered risks.

Q. And this insurance pays no taxes at all? A. They pay no taxes at all, nor do the holders of those policies pay any taxes.

By Mr. HURRELL:

Q. I ask you if you wrote this letter of September 27th to the Factory Insurance Association: "Factory Insurance Association, Mr. H. L. Phillips, Manager, No. 5 Haines street, Hartford, Connecticut, Gentlemen: We have two or three specific risks in the Metropolitan district which we control, and are now in process of being protected by automatic sprinklers and other like fire-resisting appliances. We fear that we will have difficulty in retaining such, owing to the competition of the associated factory mutual fire insurance companies, and that the restricted schedule of the New York Fire Insurance Exchange cannot name a sufficiently low rate in competition with the rate offered by the Associated Factory Mutual Fire Insurance Company. Will you be good enough to inform us if you can compete with the mutual companies, and what steps are necessary on the part of our clients ourselves to take in order to secure your assistance and co-operation to maintain the line for the stock companies. Appreciating your early advices, we remain, yours very truly, I. Tanenbaum, Son & Co." You sent that letter, did you? A. Yes, sir.

Q. And did you receive this reply, being dated Hartford, Connecticut, September 29, 1910: "I. Tanenbaum, Son & Co., Singer

Building, New York city. Gentlemen: Replying to yours of the 27th inst., with reference to certain risks within the jurisdiction of the New York Fire Insurance Exchange, we beg to advise you that we should be very glad indeed to investigate the cases providing you can obtain the consent of the New York Fire Insurance Exchange to our taking such a course. Trusting this is satisfactory, we beg to remain, Yours very truly, Factory Insurance Association. H. P. Smith, Superintendent, Inspection Department." That letter came to you? A. Yes, sir.

Q. And that is the part of this correspondence which has to do with this matter? A. Yes, sir.

Q. Now, were there any letters from the individual companies composing the Factory Insurance Association to the same effect as this letter from the Factory Insurance Association? A. Yes, sir. We wrote, asking the majority of the insurance companies who were willing to write these lines, if they were at liberty to do so without violating their obligation to the New York Fire Insurance Exchange.

Q. All the correspondence in this folder, does it relate to this specific thing? A. Yes, sir.

Mr. Hurrell: I offer these all in evidence.

Admitted and marked Exhibit O 1.

The following is a copy of the correspondence in question:

Sept. 22-10.

Mr. C. G. Smith,
Secretary, German American Ins. Co.,
1 *Liberty St., City.*

Dear Sir:

We thank you to be good enough to advise us the names of the companies, members of the Factory Insurance Association; likewise inform us if this body is entertaining or underwriting risks in the Metropolitan District, or within the province or jurisdiction of the New York Fire Insurance Exchange.

Appreciating your attention, we remain,

Very truly yours,

Sept. 26th, 1910.

MESSRS. I. TANENBAUM, SON & CO.,
149 *Broadway,*
New York City.

GENTLEMEN:

Responding to your esteemed favor of the 22nd which came during the writer's absence, I hand you herewith letterhead recently received from the Factory Insurance Association, which furnishes a list of Companies belonging to that organization, and which will answer your query.

In the matter of entertaining lines in the Metropolitan District, under the jurisdiction of the New York Fire Insurance Exchange, would say that as far as my information goes they will entertain risks but I think they have had difficulty in inducing the Exchange to make the way free for them to operate wherever it requires concession in rate (to secure the business from the Mutuals) which is lower than the tariff rate of the Exchange. If you have an account which you would like to bring to their attention, would suggest that you write them freely in order to get direct information, rather than to rely upon my understanding.

Yours very truly,
C. G. SMITH,
Secretary.

Sept. 27, 1910.

FACTORY INSURANCE ASSOCIATION,
Mr. H. L. Phillips, *Manager,*
No. 5 Haynes St., Hartford, Conn.

GENTLEMEN:

We have two or three specific risks in the Metropolitan District which we control, and are now in process of being protected by automatic sprinklers and other like fire-resisting appliances. We fear that we will have difficulty in retaining such owing to the competition of the Associated Factory Mutual Fire Insurance Companies, and that the restricted schedule of New York Fire Insurance Exchange, cannot name a sufficiently low rate in competition with the rate offered by The Associated Factory Mutual Fire Insurance Companies.

Will you be good enough to inform us if you can compete with the Mutual Companies, and what steps are necessary on the part of our clients or selves to take in order to secure your assistance and co-operation to maintain the line for the stock companies.

Appreciating your early advices, we remain,

Very truly yours,

FACTORY INSURANCE ASSOCIATION, *Sept.* 30, 1910.
Hartford, Conn.

GENTLEMEN:

We thank you very much for your favor of the 29th inst., and in conformity with your expressions we extract herewith a communication addressed this day to the New York Fire Insurance Exchange which is self-explanatory:

THE NEW YORK FIRE INSURANCE EXCHANGE,
No. 123 *William Street,*
New York.

GENTLEMEN:

We have several risks within the jurisdiction of your association and which, on account of the quotations named by you and the conditions demanded, we know we will be unable to hold. The rates named by you are not sufficiently low to meet the competition of the Associated Factory Mutual Insurance Companies. Several of these plants have been with the Mutuals for many years past, and we had endeavored to secure their return to the stock companies. We feel quite confident from information in our possession that the Factory Insurance Association of Hartford is capable of naming sufficiently low competitive rates to secure the lines. We are therefore submitting, partly at their suggestion and of our own accord, these lines to you requesting your consent in permitting the Factory Insurance Association to inspect these risks and name a rate in competition with the Associated Factory Mutual Companies.

Thanking you to be good enough to submit these lines to the proper committees for immediate attention, we remain,

Very truly yours,
I. TANENBAUM, SON & COMPANY.

As soon as we receive their reply, we will be glad to again communicate with you.

Very truly yours,
I. TANENBAUM, SON & CO.

Sept. 30, 1910.

THE NEW YORK FIRE INSURANCE EXCHANGE,
No. 123 *William Street, City.*

GENTLEMEN:

We have several risks within the jurisdiction of your Association and which on account of the quotations named by you and the conditions demanded we know we will be unable to hold; the rates named by you are not sufficiently low to meet the competition of the Associated Factory Mutual Insurance Companies. Several of these plants have been with the Mutuals for many years past, and we have endeavored to secure their return to the stock companies. We feel quite confident from information in our possession that the Factory Insurance Association of Hartford is capable of naming sufficiently low competitive rates to secure the lines. We are therefore submitting, partly at their suggestion and of our own accord, these lines to you requesting your consent in permitting the Factory Insurance Association to inspect these risks and name a rate in competition with the Associated Factory Mutual Companies.

Thanking you to be good enough to submit these lines to the proper committees for immediate attention, we remain,

Very truly yours,

Oct. 1, 1910.

MR. C. G. SMITH,
Secretary, German American Insurance Co.,
No. 1 *Liberty Street, New York.*

DEAR SIR:

We beg to extract herewith a communication addressed to the New York Fire Insurance Exchange under date of the 30th ultimo which is self-explanatory:

Sept. 30, 1910.

New York Fire Insurance Exchange,
No. 123 *William Street, N. Y.*

Gentlemen:

We have seevral risks within the jurisdiction of your Associa- and which on account of the quotations named by you and the conconditions demanded we know we will be unable to hold; the rates named by you are not sufficiently low to meet the competition of the Associated Factory Mutual Insurance Companies. Several of these plants have been with the Mutuals for many years past and we have endeavored to secure their return to the stock companies. We feel quite confident from information in our possession that the Factory Insurance Association of Hartford is capable of naming sufficiently low competitive rates to secure the lines. We are therefore submitting, partly at their suggestion and of our own accord, these lines to you requesting your consent in permitting the Factory Insurance Association to inspect these risks and name a rate in competition with the Associated Factory Mutual Companies.

Thanking you to be good enough to submit these lines to the proper committees for immediate attention, we remain,

Very truly yours,
I. TANENBAUM, SON & CO.

May we ask you to be good enough to use your good offices in securing the approval and consent of the New York Fire Insurance Exchange and their permission to allow the Factory Insurance Association to name rates in competition with the Mutual Companies.

Appreciating your attention, we remain,

Very truly yours,

October 4th, 1910.

Messrs. I. Tanenbaum, Son & Co.,
149 *Broadway, New York City.*

Gentlemen:

Your esteemed favor of the first duly received, and we have been much interested in reading the communication which you addressed

to the New York Fire Insurance Exchange on the thirtieth ultimo. We are sorry not to be able to feel encouraged as to the favorable outcome of your letter, but since we have had this subject up with the Exchange on several occasions without being able to get permission to make competitive rates for mutual business, we are inclined to be a little skeptical. We recall a case which this Company was interested in a year or so ago, where the entire insurance on a risk under the jurisdiction of the "Exchange" was carried by the New England Mutuals. The brokers interested had no difficulty in securing authorizations from a few prominent companies on the street sufficient to take the whole line from the Mutuals and at a rate satisfactory to the assured and the companies. The proposition was presented to the "Exchange" with an urgent request that the companies be permitted to write the risk and thus take one account at least in this territory from the Mutual Companies. The request, however, was not granted and the Mutual Companies renewed their policies unmolested. We have always felt that it was a mistake of the "Exchange" not to provide some method for successfully treating these special cases, and hope for favorable outcome of your present effort.

Yours very truly,
(Signed) C. G. SMITH.

October 11, 1910.

MESSRS. I. TANENBAUM, SON & CO.,
No. 149 *Broadway, City.*

GENTLEMEN:

Referring again to your communication of September 30th, and our reply thereto dated October 3rd, dealing with the question of the proper method of meeting in behalf of the Stock Companies the competition of the Associated Factory Mutuals for sprinklered risks in Exchange territory, we have to say that the subject has been informally discussed with the Executive Committee and the Rate Committee of the Exchange, the members of both Committees agreeing in the conclusion already expressed in our letter above referred to that the matter cannot be disposed of by any transfer of jurisdiction from the Exchange to the Factory Insurance Association. The

general impression is that the only treatment available is by way of modification of the Restricted Sprinkler Schedule of the Exchange and of the rules of eligibility for rating thereon, and upon that subject there are already some suggestions being prepared looking to early action by the Exchange. In this connection, we shall be glad to be advised whether the particular risks you have in view are, or are not, under the existing conditions eligible for rating on the Exchange Restricted Sprinkler Schedule, and if not, in what respects they fail of such eligibility. Your further advice on this point may be of assistance in consideration and final disposition of the general question thus raised.

Very truly yours,

WILLIS O. ROBB,

Manager.

FACTORY INSURANCE ASSOCIATION APPLICATIONS.

Oct. 25, 1910.

Mr. Willis O. Robb,

Manager, New York Fire Insurance Exchange,

No. 123 *William Street, City.*

Dear Sir:

We acknowledge the receipt of your lines of the 11th inst. and thank you again for your courtesy in replying to our lines of the 30th ultimo.

Regarding the risks which have been submitted to your body for investigation and re-rating under the Restricted Schedule, the demands imposed by you upon the insured before such applicants can apply for a re-rating are of such a severe nature as to practically prevent the applicant from conforming therewith, more especially where such risks are and have been already accepted by and now insured with the Factory Mutual Fire Insurance Companies.

We have for many years past endeavored to use our best efforts to induce the more aggressive stock fire insurance companies seeking this class of business, to adopt some method of enabling their competing, and securing the return of the many choice risks which have

been lost to members of the New York Fire Insurance Exchange and secured by the Associated Factory Mutual Fire Insurance Companies. This corporation would not suffer to as great an extent in the loss of such risks, as the insurance companies themselves would, as the loss of our commissions is comparatively nominal in comparison with the amount and choice class of insurance continuously lost to the stock companies by their refusal and hesitancy, or inability by reason of the New York Fire Insurance Exchange's agreement to permit their underwriting according to the individual views of the insurance companies. We know that the Factory Insurance Association and other like insurance bodies are ready to compete with the Associated Factory Mutual Fire Insurance Companies.

Your organization, we fear, discourages merchants and manufacturers from offering their lines to you, and you practically restrict the members of the Factory Insurance Association from securing and competing for this business, thus leaving the market in control of the Associated Factory Mutual Fire Insurance Companies.

The rates at present named by your body, even under the restricted grading schedule, are not sufficiently low enough to justify or induce merchants and manufacturers to place their new plants, or to transfer their present insurance from these Mutual Fire Insurance Companies to your members, and unless you adopt a more favorable rating of these risks by a revised schedule and enable your members, or those of your members as are willing to compete with the Mutual Companies, we fear that more lines will be lost to you and our associates.

We appreciate the fact that with the present large membership of your body, the majority of whom are opposed to competing with the Mutual Companies, it will be difficult for you to secure the unanimous consent of all the companies members of the New York Fire Insurance Exchange; why then not allow the Factory Insurance Association to fight for their share of business in this territory and which the smaller companies could not, as individuals, secure even if they desired the lines, and thus enable that body (The Factory Insurance Association) to procure, if possible, the return of such risks that have been lost to stock companies for several years past, as well as bid for new sprinkler-equipped risks.

Whilst those lines may have no bearing whatsoever on your communication, and would probably not influence your Committee we desire to place our office on record as seeking to call your attention to facts which have been in the past and will be in the future a subject of material importance to your active members and our business community.

We point out one specific case, the risk of Smith & Kaufmann Silk Mills, Nos. 541-559 West 132d street, now insured with the Senior Mutuals, whilst the "Treating Building" recently erected at Nos. 537-39 West 132d street, at present unsprinklered, has been placed through this office with your members. We have sought for the past twelve years to induce your various rating bodies to name rates and terms in competition with the Mutual Companies, and only recently submitted the subject again for re-rating without success.

If you desire any further information on this subject, we shall be only too glad to conform with your request.

Asking your acceptance of these lines in the friendly spirit in which they are written, and with our respects,

We remain

Very truly yours,

October 26, 1910.

MESSRS. I. TANENBAUM, SON & COMPANY,
No. 149 *Broadway, City.*

GENTLEMEN:

Your favor of the 25th instant is at hand, in further reference to the suggestion made in your former letter of Sept. 30th, as to the possibility of strengthening the position of Stock Companies in their competition with Factory Mutual Companies by allowing the Factory Insurance Association of Hartford certain rights of operation in Exchange territory.

We have to thank you for the statement of the case thus submitted and to advise you that same will be further considered by the Rate Committee in due course. To facilitate that consideration we shall, however, be glad of any further specification such as our letter

of October 11th suggested that you make, viz.: as to the eligibility for rating on the present form of Exchange Restricted Sprinkler Schedule of the particular risks you have chiefly in mind, and the respects in which they fail of such eligibility, if any. The Smith & Kaufman risk, to which alone you make special reference in your present letter, is, of course, a rather peculiar case in that the erection, after the plant had been for some years insured by the Factory Mutuals, of an adjoining building occupied as a treating and sizing building and the introduction into same of a new benzine process, and the subsequent application to this Exchange for specifications which would allow of the insurance under the Restricted Sprinkler Schedule of this new building and its content only, make the case one apart from our usual experience. If other more typical cases of the difficulty you have in mind occur to you we shall be glad to have your statement and comments thereon.

Very truly yours,

WILLIS O. ROBB,

Manager.

Oct. 29, 1910.

MR. WILLIS O. ROBB,

Manager New York Fire Insurance Exchange,

123 *William Street, New York.*

DEAR SIR:

We acknowledge the receipt of your respects of the 26th instant and thank you for your expressions. We will at any time that you or your Committee deem it advisable, submit to you various instances whereby risks were lost to your members and can be re-secured by the Factory Insurance Association if your body permitted the members of that Association to submit propositions in competition with the Asst. Factory Mutual Fire Insurance Companies.

You apparently misunderstood us regarding the Smith & Kaufman risk. It is the intent of the assured to transfer the insurance on the Treating Building from your members to the Associated Factory Mutual Fire Insurance Company when their risk is equipped; they are simply placing this line with your members during the period that the risk is in process of equipment, and when fully pro-

tected it is their expectation to transfer this line to the Mutual Companies now carrying the lines on their main plant and other interests.

In our earlier correspondence with you we endeavored to induce you to concede a competitive rate which in our judgment would procure the return of the line on the "Main Mill" as well as retain the "Treating Building" for your members. The rates and conditions named by you, however, were of such a nature, that it would have been injudicious on our part to even submit your conclusions to Messrs. Smith & Kaufmann.

If, however, the Factory Insurance Association were permitted by the withdrawal of the conditions of your body to either enter in this market in competition with the Mutual Companies in naming terms and conditions, we are quite confident this and other risks would be acceptable to them in their present condition.

Appreciating your desires to co-operate with us, and with our continued well wishes, we remain,

Very truly yours,

New York, *Nov.* 7th, 1910.

Messrs. I. Tanenbaum, Son & Co.,
149 *Broadway*,
New York.

Dear Sirs:

Your favor of the 1st instant was received here on the 5th. In reply, I would say that I am quite in sympathy with the effort to retain to the stock fire insurance companies the power of effective competition with the Mutuals, and anything that is in my power to do, to bring this about, will be done.

Thanking you for calling my attention to this matter, believe me,

Yours very truly,

FRANK LOCK,
Manager

November 9, 1910.

MESSRS. I. TANENBAUM, SON & CO.,
149 *Broadway, New York.*

GENTLEMEN:

I am in receipt of your letter of November 7th regarding the Factory Insurance Association and sprinklered business in the Metropolitan District.

I am leaving New York late to-day to be gone until Monday next, so I will not be able to give your letter attention until I return; but I will refer it to Mr. Lockett, in charge of our Sprinklered risk department, for consideration, and report to me on my return, when I will be glad to take the subject up for consideration.

Yours very truly,

HENRY EVANS,
President.

November 11, 1910.

MESSRS. I. TANENBAUM, SON & CO.,
149 *Broadway,*
New York City.

DEAR SIRS:

We are favored with the receipt of your letter of the 1st instant, on the subject of the competition of the Associated Mutual Companies upon sprinklered business within the jurisdiction of the New York Fire Insurance Exchange, and your desire to have the co-operation of the Factory Insurance Association and the consent of the New York Fire Insurance Exchange thereto for the purpose of meeting competition of the character complained of. While the Factory Insurance Association was started by a number of the leading Companies and a plant established that would enable them to do their business on a basis similar to that of the Mutual organizations, as far as inspection, protection, etc., was concerned, it was not assumed by us that the Factory Insurance Association would seek liability in congested centers of large cities, nor has it been usual, as far as our knowledge extends, until comparatively recently, that the Mutual Companies have sought insurances upon exposed city risks. Individually we would hardly be prepared at the moment to

feel that liability should be solicited by the Factory Insurance Association where there was any congestion of the conflagration hazard, especially at rates that would enable them to compete at the exceedingly low net figure of Mutual Companies. We do not understand from your communication what the conditions are surrounding the risks that you have in mind, but generally we might state that we would be in favor of a loosening of the lines, as far as the New York Fire Insurance Exchange is concerned, and permit the competition of the Factory Insurance Association upon isolated risks as against the Associated Mutual Companies. It is possible that the Fire Insurance Exchange has, in the respect complained of, been ultra conservative, occasioned, possibly, by the refusal of many Companies to lay down the bars, these same Companies very likely being of the class that under no circumstances would care to write the business of the character in question at what is generally the prevailing rate on such classes. Understand us, therefore, as being prepared to lend our co-operation to the introduction of Factory Association competition as against the Associated Mutuals in the territory of the New York Fire Insurance Exchange or other territory outside of exposed centers.

Thanking you for having addressed us so fully on the subject, we are,

Yours truly,

C. J. HOLMANN,

Asst. Mgr.

FACTORY INSURANCE ASSOCIATION.
NEW YORK FIRE INSURANCE EXCHANGE.

MESSRS. I. TANENBAUM, SON & CO., *Nov.* 14, 1910.
149 *Broadway, New York City.*

GENTLEMEN:

We have read with interest your communication dated the 1st inst. and shall be glad to do what we can to further a more satisfactory working agreement between the two organizations.

Yours truly,

H. A. SMITH,

Vice Pres't.

November 14, 1910.

MESSRS. I. TANENBAUM, SON & CO.,
149 *Broadway,*
New York City.

GENTLEMEN:

Your favor of the 1st inst. has been received and perused with a great deal of interest. As a member of the Factory Insurance Association we would be glad if, in extreme cases, at least, the F. I. A. might be authorized to compete with the Associated Factory Mutuals within the territory of the New York Fire Insurance Exchange, but aside from the fact that the majority of the members of the Exchange that are not members of the F. I. A. would be likely to prevent such privilege, there is a fundamental difficulty. The Exchange agreement itself provides that all risks except a few which are permitted to be rated under mimimum rates must be rated by schedule. It would require a unanimous vote of the Exchange to alter that provision, and that, you know, would be impossible. It takes a 90 per cent vote, as you are aware, to make or alter a schedule. Your lines of approach are limited and I suggest that you concentrate your attention or demonstration that the Restricted Sprinkler Schedule does not meet the situation in some cases and if you believe that there are rules in connection with the matter that tend to deprive the Exchange of the opportunity of applying the schedule that you make a specific explanation thereof. I was once a member of a special committee appointed to consider dealing with competition with the Associated Factory Mutuals and we soon found ourselves up against the fundamental law of the Exchange requiring the risks to be rated by schedule. For some time thereafter nothing was done facilitating the making of rates on the class referred to on a basis that could be called in any way competitive. After some time Mr. E. U. Crosby gave his attention to the subject and devised the Restricted Schedule. I have been under the impression that it has been working fairly well but am aware that it is very difficult to take a risk out of the Associated Factory Mutuals and we would scarcely be prepared to create a schedule for general application which would accomplish that purpose. There is an amendment to the Exchange agreement under which a risk may receive special

treatment by a 90 per cent vote when duly advertised to the members. I do not recall any case that has come up under that rule.

There is of course jealousy toward the F. I. A., on the part of companies not members of that organization, and I suppose we must admit that such feeling is not altogether unnatural.

Yours very truly,

GEO. W. BABB,
Manager.

FACTORY INSURANCE ASSOCIATION, NEW YORK FIRE INSURANCE EXCHANGE.

November 15, 1910.

GEORGE W. BABB, ESQ.,
Manager The Northern Assurance Co., Ltd.,
No. 38 *Pine Street, N. Y.*

DEAR SIR:

We appreciate very much your comments on our lines to you of the 1st instant.

We are inclined to agree thoroughly with you in the views expressed in your favor and appreciate that it will be very difficult to overcome the objection of the majority of the members of the New York Fire Insurance Exchange, who naturally, by reason of their inability to share in the large and desirable lines that would be diverted to the Factory Insurance Association and its members, would be disinclined to concur in a 90 per cent vote, or to alter the Exchange agreements. We believe, however, that at an early date the strength of your combined members of the Association will be sufficient to compel a more liberal interpretation of the New York Fire Insurance Exchange rules in assisting the agents and brokers to hold their patrons for the stock companies in their ability to offer fair rates in competition with the Associated Factory Mutual Fire Insurance Companies, in this territory.

Assuring you of our pleasure, by receiving your further expressions, we remain,

Very truly yours,

November 15, 1910.

MESSRS. I. TANENBAUM, SON & CO.,
New York, N. Y.

DEAR SIRS:

We beg to acknowledge your letter of the 31st ult., with various inclosures regarding the possibility of the Factory Insurance Association operating in New York city and vicinity.

We are very much interested in the subject, and you may be sure will go into it carefully and do the best we can to promote the interests of this company and our associates on the line of business in question.

We thank you for the information, and remain,

Yours truly,
EDWARD V. CANN,
General Agent.

FACTORY INSURANCE ASSOCIATION.

November 17, 1910.

MESSRS. I. TANENBAUM, SON & COMPANY,
Singer Building, 149 *Broadway,*
New York, N. Y.

GENTLEMEN:

I have before me yours of the 11th instant and at the proper time shall be very glad to give, with other members of the Association, further consideration to the subject therein discussed.

Very truly yours,
JAS. K. ———,
———— *Manager.*

Toronto, 17th November, 1910.

MESSRS. I. TANENBAUM, SON & COMPANY,
Singer Building,
New York, N. Y.

DEAR SIRS:

We have received your circular letter of 15th instant addressed to the various members of the Factory Insurance Association of Hart-

ford, and have read same with much interest. You seem to have laid down in an accurate and most courteous manner the facts and various aspects of the sprinkler risks written by the New England Mutuals, so that there is nothing left for us to comment upon. The New York Exchange has about ten to twelve times as many members as the Factory Insurance Association, and this is just one other instance where the view of the majority must prevail or there would be chaos with the vast insurance business of New York city, and this would not be to the interest of any one — brokers or otherwise. Still you do no harm, but indeed good, by some missionary work at this time.

Yours truly,

W. B. MEIKLE,

General Manager.

Hartford, Nov. 22, 1910.

Messrs. I. Tanenbaum, Son & Co.,
No. 149 *Broadway,*
New York.

Dear Sirs:

Your letter of the 9th addressed to President Clark of this Company, concerning the inability of the Factory Insurance Association to compete with the mutuals for business in the Metropolitan District under present conditions, has been referred to me, and I have given the subject careful thought.

I am convinced, however, that Manager Robb of the New York Fire Insurance Exchange is undoubtedly correct when he says that the companies comprising the Factory Insurance Association are all themselves members of the New York Fire Insurance Exchange, and thus bound by the terms of the Exchange agreement (which can only be modified by unanimous consent):

First, not to issue policies in this territory, excepting through Exchange Members, and

Second, to issue such policies only at Exchange ratings.

There are reasons just now which make it impossible, as I believe, to bring about the relief which you wish. There are two or three companies that would certainly oppose this, and it would therefore

be defeated. We believe that it is inexpedient and Hopeless to agitate this question just now.

Regretting that we are unable to write you more hopefully,

Very truly yours,

A. H. WILLIAMS,

Assistant Secretary.

FACTORY INSURANCE ASSOCIATION.

November 23rd, 1910.

MESSRS. I. TANENBAUM, SON & Co.,
149 *Broadway,*
New York City.

GENTLEMEN:

Your esteemed favor of the first came duly to hand. We have read the correspondence in which you have been involved, touching upon this question, with more than usual interest. The problem is very complex, and while we would be glad to have the Exchange recognize the conditions so clearly pointed out by you, we feel, nevertheless, that there is sufficient opposition to overcome the efforts of those who agree with you, since it will require the unanimous vote of the Exchange to make the necessary amendments to the agreement. You may feel sure that we will give favorable consideration to your proposition, and when the opportunity arrives for considering the subject, it will have our backing.

Yours very truly,

WM. N. KREMER,

President, S.

NEW YORK FIRE INSURANCE EXCHANGE.

NEW YORK, *Nov.* 5th, 1910.

I. TANENBAUM, SON & Co., INC.,
149 *Broadway, City.*

DEAR SIR:

Certificate No. 22934, issued to you, will expire Dec. 1, 1910, if you wish to have same extended for another year (unless sooner

cancelled) such extension may be made subject to approval by the Brokerage Committee, upon presentation of your Certificate at this office, 123-133 William Street, and payment of Ten Dollars ($10.00).

Please take notice that if your Certificate is not renewed at or before its date of expiration, thereby causing your name to be withdrawn from Brokers' List, you will have to pay Three dollars ($3.00) extra, in case a Certificate is applied for by and granted to you after your name has been so withdrawn.

Please furnish us with a list of the present shareholders of your corporation, and the business of each shareholder other than that of Fire Insurance.

Please call before 1 p. m. on Saturday, other days between 10 a. m. and 3 p. m.

Yours truly,
WILLIS O. ROBB,
Manager.

Bring or send your present certificate to this office.

NEW YORK FIRE INSURANCE EXCHANGE,
123 *William Street,*

WILLIS O. ROBB,
Manager.

NEW YORK, *Nov.* 25, 1910.

I. TANENBAUM SON & CO.,
149 *Broadway, City.*

GENTLEMEN:

We are in receipt of your letter of Nov. 23rd accompanied by check No. 69165 to our order in the sum of $10.00.

Your letter fails to bring our information forward to date by advising as to the names of the present shareholders of the corporation, neither did you return for our files Certificate 22934, Consecutive Issue No. 57319.

We hold the papers in our abeyance file awaiting the presentation of present certificate and the necessary information.

Yours very truly,
WILLIS O. ROBB, *Manager.*

From I. TANENBAUM, SON & Co.,

November 26, 1910.

In re Certificate No. 22934.

NEW YORK FIRE INSURANCE EXCHANGE,
123 *William Street, New York City.*

Gentlemen: Replying to your favor of the 25th instant, and in conformity with the telephonic request of your Mr. Bodwell, we are returning herewith certificate No. 22934, issued to this corporation and expiring December 1st, 1910.

Regarding your request to favor you with the names of the present share-holders of this corporation, we know of no obligation under our agreement with your body to favor you with this specific information; nor do we consider it essential. We would, therefore, thank you to be good enough to point out to us any section of our agreement with you which requires us to furnish this information.

Yours very truly,

From I. TANENBAUM, SON & Co.

November 28, 1910.

IN RE CERTIFICATE No. 22934.

NEW YORK FIRE INSURANCE EXCHANGE,
123 *William Street, New York City.*

GENTLEMEN:

Replying to your favor of the 25th instant, and in conformity with the telephonic request of your Mr. Bodwell, we are returning herewith Certificate No. 22934, issued to this corporation and expiring December 1st, 1910.

Regarding your request to favor you with the names of the present share-holders of this corporation, we know of no obligation under our agreement with your body to favor you with this specific information; nor do we consider it essential. We would, therefore, thank you to be good enough to point out to us any section of the agreement with you which requires us to furnish this information.

Yours very truly,

NEW YORK FIRE INSURANCE EXCHANGE,
123 *William Street.*

WILLIS O. ROBB,
Manager.

NEW YORK, NOV. 29, 1910.

22934
GBB

I. TANENBAUM, SON & CO., INC.,
149 *Broadway, City.*

GENTLEMEN:

The Brokerage Committee at its meeting this morning gave careful attention to the contents of your letter of Nov. 28th and instructed the office to in its name request you to please furnish for the confidential information of the Committee, list of the present shareholders of I. Tanenbaum & Co., Inc.

Looking forward to receiving the information that it may be presented to the Brokerage Committee at the meeting of Tuesday next, we are, dear sirs, yours very truly,

BB

WILLIS O. ROBB,
Manager.

December 1, 1910.

NEW YORK FIRE EXCHANGE,
123 *William Street, New York City.*

DEAR SIRS:

We have your favor of the 25th ultimo. But for the existence of what we consider to be an obligation on our part to refrain from unnecessarily exposing the identity of our stockholders we would not object to complying with your polite request for a list of our stockholders. There are, however, certain reasons why we should not furnish a list of our stockholders except in cases of necessity, and we must, therefore, in this case, refrain from complying with your request. We assume that in requesting this information your Brokerage Committee must have in mind some specific purpose. If you will state such purpose we might be able to satisfy it without divulging the names of our stockholders, and we would be pleased to go as far as possible in that direction.

Yours very truly,

From I. TANENBAUM, SON & Co.,

December 1, 1910.

NEW YORK FIRE INSURANCE EXCHANGE,
No. 123 *William Street, New York.*

GENTLEMEN:

We have your favor of the 29th ultimo. But for the existence of what we consider to be an obligation on our part to refrain from unnecessarily exposing the identity of our stockholders we would not object to complying with your polite request for a list of our stockholders. There are, however, certain reasons why we should not furnish a list of our stockholders except in cases of necessity, and we must, therefore, in this case, refrain from complying with your request. We assume that in requesting this information your Brokerage Committee must have in mind some specific purpose. If you will state such purpose we might be able to satisfy it without divulging the names of our stockholders, and we should be pleased to go as far as possible in that direction.

MT-B

Very truly yours,

NEW YORK FIRE INSURANCE EXCHANGE,
123 *William Street.*

WILLIS O. ROBB,
Manager.

NEW YORK, *Dec.* 2, 1910.

22934
GBB

I. TANENBAUM, SON & Co.,
MOSES TANENBAUM, ESQ., *President,*
149 *Broadway, New York City.*

GENTLEMEN:

We have read with interested attention your communication of Dec. 1st over the signature of President Tanenbaum, and the only reason that we requested the information from your good selves is that it is something that has always been requested from each and every corporation holding a broker's certificate.

In other words the Committee expects to at least once a year bring our record up to date as to the personal ownership of each and every certificate. The information is treated as confidential by the Committee and is not given out to any inquirer.

The Committee and the office has always been of the opinion that the files showing data as above is of value in protecting legitimate brokerage interests.

Trusting that you can see your way clear to favor us with the necessary information, we remain, dear sirs,

Yours very truly,

WILLIS O. ROBB,
Manager.

From I. Tanenbaum, Son & Co.

December 5, 1910.

New York Fire Insurance Exchange,
No. 123 *William Street,*
New York City.

Dear Sirs:

We have your letter of the 2nd instant. We find nothing in your letter which would, in our opinion, justify us in making a disclosure of the names of our stockholders. While you state it to be your opinion that information as to the stockholders of corporatins holding your brokerage certificates is of value in protecting legitimate brokerage interests, you do not point out wherein information as to the stockholders of this corporation is required by you in order that you may protect any legitimate brokerage interests. We do not question that such information may be necessary in certain cases for that purpose; and while the system of compiling it in all cases in order that it may be readily accessible in necessary cases is unquestionably judicious from your point of view, the exaction of such confidential information, merely in pursuance of your general system, in a case where there is no real or apparent necessity for it is, we think unreasonable and improper. This corporation and its predecessor firm have been established for fifty years, during which entire period they have transacted an insurance brokerage business on a large scale. There can be no question but that this

corporation is engaged in the transaction of a legitimate insurance brokerage business and is in good standing. No claim to the contrary ever has been, now is, or properly could be made. We cannot, therefore, see how the information requested by you can in any way serve to protect legitimate brokerage interests or to accomplish any other legitimate purpose except your purpose to have at hand, in advance of any real necessity, a great deal of information which may possibly be reasonably required at some future time, but which is not necessary at the time you request it. We think that the disclosure by us of such information in advance of any real necessity therefor would entail disadvantages to us and to our stockholders out of all proportion to the advantage it would afford you in the mere perfection of a branch of your system, and we must, therefore, respectfully decline your request.

MT-B

Very truly yours,

NEW YORK FIRE INSURANCE EXCHANGE,
123 *William Street,*

WILLIS O. ROBB,
Manager.

NEW YORK, *Dec.* 9, 1910.

22934
GBB

I. TANENBAUM, SON & CO., INC.,
149 *Broadway, New York.*

GENTLEMEN:

The Brokerage Committee at its meeting yesterday gave careful attention to your letter of Dec. 5th and the previous correspondence in connection with continuing Certificate 22934.

The Committee voted, instructing the office to, in its name, write you to the effect that the office file now contains list of shareholders of your corporation as furnished by the corporation, and that it is the belief of the members of the Committee that the list is not correct at the present time, and, therefore, the inquiry is di-

rected for the purpose of a proper record. The list now in exchange files shows the name of at least one person against whom charges are now on file.

Yours very truly,

WILLIS O. ROBB,
Manager.

BB

From I. Tanenbaum, Son & Co.

Dec. 13, 1910.

M.T.

New York Fire Insurance Exchange,
No. 123 *William Street, New York.*

Gentlemen:

We have your letter of the 9th inst. in which you seem to renew your request for a list of our stockholders. We note your statement that it is the belief of the members of the Brokerage Committee that the list of the shareholders of our corporation previously furnished by us and now on file in your office is not correct at the present time and that your request for a list of our stockholders at the present time is directed for the purpose of a proper record. That purpose was previously stated by you and we assumed a very definite attitude in the matter in our letter of December 5th, 1910, which attitude was assumed with a full knowledge of your purpose as previously stated by you and as repeated in your letter of the 9th inst. We find nothing in your letter of the 9th inst. to cause us to alter our attitude. The statement of the belief of the members of your Brokerage Committee that the list now on file in your office is not correct does not alter the situation. We assumed that such was the belief of your Brokerage Committee and that it was desirous either of correcting the list now on file or of confirming the correctness of that list at the present time. Your statement that the list now on file in your office shows the name of at least one person against whom charges are now on file does not seem to us to be of any importance. If you intend to convey the idea that the mere existence of charges against a person who happens to be a stockholder in our corporation or even the disqualification of any such

person to hold your broker's license affords any justification for refusing a license to this corporation, we must take issue with you on this point. Although we do not concede your right to the information, if you will furnish the name of the person referred to by you, in your letter of December 9th, 1910, we will, as a mere courtesy to you, and in the hope of ending this interminable correspondence, advise you whether or not the said person is at the present time a stockholder of our corporation.

B

Yours very truly,

NEW YORK FIRE INSURANCE EXCHANGE,
123 *William Street,*

WILLIS O. ROBB,
Manager.

NEW YORK, *December* 16, 1910.

22934

I. TANENBAUM, SON & CO., INC.,
149 *Broadway, New York City.*

GENTLEMEN:

The members of the Committee at the extra meeting of Thursday the 15th, gave careful attention to the contents of your communication addressed to the New York Fire Insurance Exchange under date December 13, 1910, and instructed me, as Chairman, to write to you to the effect that the Committee cannot continue certificate in the name of your corporation from December 1, 1910, unless it is furnished with a list of the present shareholders of the corporation, I. Tanenbaum, Son & Co.

The present members of the Brokerage Committee do not feel that they could be in any manner justified if they issued certificates to names without knowing the personal ownership of the certificates.

Yours respectfully,

C. T. GAUTEWAITE,
Chairman Brokerage Committee.

BB.

First Class Certificate

NEW YORK FIRE INSURANCE EXCHANGE,

No. 32 Nassau Street,

NEW YORK, *December* 1, 1905.

Consecutive Issue
No. 18668

Good for one year from date unless sooner cancelled.

THIS IS TO CERTIFY that I. Tanenbaum, Son & Co., inc. has signed Broker's Pledge Classes I and II and the agreement copies of which are printed on the back of this certificate and is entitled to receive the benefits thereof.

By order of the Brokerage Committee.

Registry No. 22934

T. P. WAID, *Cashier.* H. E. HESS, *Manager.*

Q. Now, turning to these Factory Insurance Association risks, do you know of any property in New York City that any member of the Factory Insurance Association is on, that is, a poorer class of properties than that about which you were writing in this correspondence just put in the record? A. As I interpret your question you mean that the Factory Insurance Association either as a body or the individual companies are on property of an inferior quality to this property that we are discussing?

Q. Yes, in this city? A. In this city?

Q. Yes. A. No, sir.

Q. There are not any here at all? A. No; the Factory Insurance Association cannot underwrite here.

Q. All right; are they on property around New York city outside of the jurisdiction of the Exchange? A. Well, I have a specific case fresh in my memory of where the Factory Insurance Association and their individual companies absorb the entire line of Cramer King & Company, a manufacturing company of Paterson, New Jersey. This is a bleachery where they dye and finish silks, and which plant had been severely damaged by fire earlier in the year,

and recently sprinklered, and the factory insurance companies competed with the mutuals and underwrote the line as low as ten cents. That risk is far inferior to any of the risks enumerated in this correspondence. It is on the outskirts of Paterson and is some distance from the Paterson Fire Department.

Q. Did the Exchange ever go into detail with this correspondence or with you verbally through its manager in explaining to you why they would not allow these companies to come in here and make a competitive rate of that kind? A. As individuals they have discussed it with me.

Q. What is the reason they won't do it? A. The reason is that they prefer to maintain the Exchange as a whole, considering the vast volume of premium involved, and lose this class of business in preference to disrupting their body. In other words, they have got $25,000,000 premium involved in the Metropolitan district, whereas the entire premium that would revert to them on that class of business might not aggregate $100,000. It is putting $25,000,000 against $100,000.

Q. Are not the various stock companies not in the Factory Insurance Association capable of getting into it if they want that class of business? A. The Factory Insurance Association is a body where a company has to be elected in order to become a member of it; it has to have standing, and a sufficient amount of assets in order to become a member, that will enable them to allot or apportion their line.

Q. Well, is there any difference between New York city in that regard and outside, where the companies compete with one another? A. For what class of business?

Q. That is—I will withdraw the question. A. There are quite a number of companies, members of the Exchange probably would not care to underwrite it as individuals.

Q. You mean, that are not in the factory association? A. That are not in the factory association, and such require unanimous consent, those companies could withdraw, the large companies who are willing to underwrite.

Q. That is to say, as a practical matter, companies in the Factory Insurance Association would not consent to lower the rates so that they could get it, they would rather see the mutuals have it? A.

They do not want to see the rates lowered on any class of business in the territory of the Exchange.

Q. Do the members of the Factory Insurance Association go outside, up-state for instance, and compete with the mill mutuals? A. Anywheres in the United States.

Q. And compete successfully on that line of business? A. Yes; and they are capable; in other words, they are capable to write such at 10 cents.

Q. How do the stock companies in other communities, how do they meet the competition of the mutuals, by a relief rate? A. They secure a relief rate as a rule.

Q. Then they get from the other rating bureaus what they cannot get here? A. Yes, sir. Here they overcome that by stating that they have a restricted schedule which will afford a competitive rate.

Q. But which really does not afford it, it is not sufficiently low to? A. It is not sufficiently low to meet mutual competition. There is no doubt in my mind that the stock companies can afford to sell insurance on this class of business outside congested centres as low as mutual companies can.

Q. You think they can? A. Yes, sir.

Q. Why do you think that? A. Let us take the Boston Manufacturers' experience for the last 12 years. Their average dividend has been about 90 per cent. Assume their gross rate to be 80 cents on an average, that would return to a policy holder 90 per cent, would leave a net cost of 8 cents. Now, the holder of that policy is paying 80 cents for insurance that he could buy at 10 cents, so he is paying 6 per cent interest on 70 cents, the difference in the actual net cost and the amount of cash disbursement that he pays or gives to the mutual company. In other words, he is investing in the Boston manufacturers 80 cents where he would only be required to pay 10 cents, that is a difference of 70 cents, 6 per cent on 70 cents is 4.2 cents. Now, you add 4.2 cents to 8 cents, and you have got a net cost of only 12.2 cents to compete with. A merchant would rather pay 10 cents flat than advance his money to the Boston manufacturers at 80 cents and receive a dividend of 90 per cent.

Q. Then he escapes this additional liability? A. And he escapes

the liability of an assessment, of a contingent liability; he has got a flat cost, or net rate of premium.

Q. And that is the answer of why they do compete with the mill mutuals? A. Yes, and successfully. In the experience of the stock companies writing the class of business that the mill mutuals do, it has been favorable even at their low rate. They have made a profit, and in my judgment as an individual a greater profit can be made in underwriting high grade manufacturing plants outside of congested centres than there is on the dwelling house.

Q. Well, do you know why the companies in the factory insurance association, why they would rather see the mill mutuals come in here and pick up this preferred business, that is, the sprinkler business, around the outskirts of the congested district, than to let some of the other members of the Board of the Fire Insurance Exchange come in and get it? A. The only explanation I can give is that they believe they can gamble on a limited line, on the chance of their holding enough business at Exchange rates, they would rather lose 75 per cent on mutual risks than retain 25 per cent, and receive $25,000,000 for that line, than to take the Insurance Association into that congested district, and encourage the general reduction of rates.

Judge BRUCE: Isn't it because, now controlling absolutely the whole market for insurance in the Metropolitan district, and having the power of fixing the rates, it prefers to maintain that status, rather than break the rate on any single line, which are now to be depended on for a large return in premiums?

The WITNESS: Yes. My judgment as a business proposition, they prefer to maintain a $25,000,000 premium income; and if they can afford to hold that, they can afford to lose a certain proportion.

Q. They wouldn't be losing $25,000,000, as they would not get the same total of risks, if the factory association would compete, that they would get with the mill mutuals, as any stock companies' line will be a comparatively small item of that total premium income of $25,000,000? A. A very small percentage; it wouldn't be two and a half per cent.; that class of business the factory insurance association could not write. Their theory is if you open the door a little and remove one brick, you will have to remove another and make the opening wider.

Q. They figure if the Factory Insurance Association got the chance,— A. They will encourage the improvement of risks, and lower rates, on certain classes of property.

Q. That is, perhaps, one reason why they haven't interfered with that business? A. No, I wouldn't make the statement. I think the majority of the largest companies would prefer to see, even though the rates were reduced, more sprinklers in New York City; in every building you install sprinklers it retards fire. I think the companies conducting large businesses would prefer to see that, even at a low rate, because it stops a conflagration, so that as a whole, they won't object to the lower rate, if they can get any return for it.

Q. Have you had any experience in equipping buildings in New York with outside sprinklers? A. Yes, sir.

Q. How did you find, as a practical matter, that outside system works? A. Very valuable.

Q. Have you had any experience in stopping a conflagration by it? A. The most practical experience was in Baltimore, the O'Neil dry goods store. I have one here, I think it is one of the best reasons, it is one of the best specific cases where the fire curtain is illustrated. There is the operation of the fire curtain (witness exhibits photograph to Committee and illustrates by referring thereto). Now, if you will allow me to point here; that is a big manufacturing establishment on our river front. This faces the river. This is a tank. This is a coal and wood yard, and behind this is a garage, very hazardous. Now, the pump is down below here, and below that is a reservoir of about 40,000 gallons of water, constructed of steel underground. Now, over each window here, is a sprinkler head, open, not soldered, perforated. In the event of fire across here, the pump is immediately placed in action, and there is a stream of water automatically over every one of these windows, connected to the entire water supply, this is a curtain, a blanket of water, to keep the heat from the fire making progress. And by that means, as long as this water will last, you can stop this fire from entering this building from that way. Now, on this side is an illustration. There is no fire protection of that kind, now the fire could creep in here, and the firemen could not fight the fire from this side at all. The fire could creep in there and get

started irrespective of the sprinklers. You could not control that fire from the outside, even if sprinklers were inside. The result is that you would lose the facility of water fighting that fire. That water curtain is above forty windows. We have had experience in that, and these curtains have stopped possibly four or five fires from entering premises, and protected life and property.

Q. How does the cost of installation compare with the saving of premiums, which result therefrom? A. I think the cost of installation will reduce the premiums anywhere from 25 to 50 per cent.

Q. Well, getting at it another way, how many years, in how many years could a man save the cost of installing sprinklers by his reduced cost of insurance? A. That would depend on the value of the building, and the amount of insurance. If a man had silk goods in a building 50 by 100 feet, the value is $2,000,000, and his rate was 60 cents, the saving would be much greater on his property than if the value was only $50,000. It depends entirely on the question of value, and the rate.

Q. If you can get an ideal risk, or a risk that is not quite as valuable as a silk mill? A. Take a department store, which is a very fair criterion of heavy value, you can almost reduce in five or six or seven years, you can reduce the rate of insurance, so that with the exception of the contingent cost for maintenance and equipment, I think in about seven or eight years it would pay the installation expenses by the saving in insurance. Of course, in maintaining a sprinkler system, there is an added cost for charge of repairs each year. It is something like a plumbing system, it requires attention and repairs. For the information of this Committee, I might state that years ago, 15 or 20 years ago, in fact, within the last five years even, up to that period, the people that installed sprinklers in New York city were in the habit of using a wooden tank on the roof. Now, in a city like New York, where you have fires in all directions, where we have southwest winds and northeast winds, and a fire that has got up to the roof, there wouldn't be anything to prevent the wooden tank burning up, and there would be no protection left for controlling the fire inside.

Chairman MERRITT: In fact, that has happened?

The WITNESS: It has happened, and we have had an illustration of one in the past three weeks. I don't know if any of you

gentlemen are familiar with 49th Street and 11th Avenue; there was a very large fire in the Hardman-Peck piano factory, and we insured the adjoining building, known as the Howard factory; and that building, by the way, had a light dividing wall, like the gentleman who sat here was trying to illustrate, a party wall.

Q. What did he mean by that statement? A. His statement was absolutely unreasonable.

Q. What was the trouble, that the party wall didn't extend right out through the window? A. There was no parapet on the roof in the first place, and probably there was a light or airshaft area there, between the two connected walls; and the Insurance Exchange probably charged him for area. That district referred to is a large frame district in the eastern district, subject to conflagration, with a limited fire protection.

Q. You know that? A. As a broker, I wouldn't want to underwrite anything in there, and I wouldn't want to make a contract in that section; although I don't like to make these statements.

Q. You were going to illustrate there? A. Now, you gentlemen will appreciate this, I am sure. Now, this side here, this is a big factory, the Hardman-Peck Company, which made a very bad fire. (Witness uses photograph and illustrates before Committee details of the fire, and the operation of the sprinkler system).

Judge Bruce: Mr. Tannenbaum, can you give us some idea of the percentage of cost of installing sprinklers, both inside and out, in proportion to the cost of construction? A. That would depend materially on area. The average building in New York city to-day, mercantile or factory building, 50 by 100 feet, six stories high with basement, protected by a steel gravity, and steel pressure tanks, of the present standard adopted universally by either the Factory Mutual Insurance companies, or the Factory Insurance Association, would cost between nine and twelve thousand dollars in the ordinary constructed, mill constructed building.

Judge Bruce: What proportion would that be to the entire construction?

The Witness: That would be approximately about 15 per cent of the cost of construction; that is, in addition to the cost of construction.

Assemblyman Coline: What do you mean by a steel pressure tank?

The WITNESS: A pressure tank is like a boiler; it is round and it contains part water and part air.

Assemblyman COLNE: Do they have compressed air on top?

The WITNESS: Compressed water on top, to force the air out faster than the gravity system would.

Assemblyman COLNE: To create a greater flow?

The WITNESS: It flows more rapidly. In other words, if a fire occurred, the pressure tank there, the introduction of air under pressure would force the water down faster than a gravity tank would. And in cities in congested centers, we can't rely as much on the gravity tank as we can on the pressure tank, because the fire department may be called to use the mains along that street, consequently, there would not be enough water from one source in the sprinkler tank, to supply of water for it; and you would not have a sufficient supply from the street connections, to retard fire attacking the building from adjoining property.

Assemblyman COLNE: It automatically creates its own pressure by the reduction of water, running in and pressing the air out of one compartment?

The WITNESS: It creates its own pressure; no pressure is there.

Assemblyman COLNE: It creates its own pressure from the reduction of the water?

The WITNESS: Because you have air in the system; you have an air pump connected with it, which maintains a certain pressure.

Assemblyman COLNE: And this shows some of these sprinklers?

The WITNESS: Yes, on that property; that is an illustration. This was a very severe conflagration on the river front here, and if this building had not been protected here, that property would have been destroyed by fire, irrespective of that light dividing wall. Now, the majority of properties in New York city to-day are not protected by steel tanks. In the congested center, probably along here, you will find a great many wooden tanks. So when the question arises of the hazard of risks in congested centers, that is one of the things, I think, the companies consider.

Chairman MERRITT: It is all right if the fire is inside, but a conflagration problem?

The WITNESS: Is beyond human ingenuity and control.

Q. Mr. Tannenbaum, what is your opinion of New York Fire Insurance Exchange; do you think it is a public benefit; or do you think it is better to have an anti-compact law in force here? A. I think, as a whole, the New York Insurance Exchange does not abuse its trust. I think it has been a benefit to the community. I think it has assisted materially in forcing merchants and manufacturers, unwillingly, to meet certain requirements. During the period that there was an open market here, which occurred in 1898 until early in 1899, merchants and manufacturers discarded pails, chemical engines, automatic hoses sprinklers, watchmen, and all those appliances, because they could buy their insurance in the open market at absurd rates. It made no difference whether they had this protection or not; they could buy insurance just as well without as with protection. The result was they were careless in these things, and not only endangered property, but endangered life. The mercantile community as a whole does not take much interest in the protection of property from a sentimental standpoint as it does from a business standpoint. The only reason the majority of them will install any appliances and maintain proper protection of their property, is their belief that they will secure a reduction of the cost of their insurance. And during that period, during the year from 1898 to 1899, the loss ratio in New York was very heavy. I think the losses were greater than the premium income, and a great many fires would not have arisen had there been any means of regulating the property in the manner that has been adopted since this Exchange was in existence. I think there ought to be some association whereby insurance companies can secure a fair compensation in return for the capital that they risk. I do not think they are charitable institutions. I do not think that you or I would want to take stock in an organization, whether it was an insurance company, a railroad company, or a manufacturing plant, if we did not receive some fair return in exchange for it. If you risk, as a stockholder, capital in an insurance company, you would expect them to use their judgment in underwriting risks, so as to give them some fair return of profit. As a whole, I think the Exchange has been a benefit to the business community.

Judge Bruce: Well, the way business affairs are organized today, insurance is really a necessity?

The WITNESS: Absolutely; there is to-day no credit without insurance, an intelligent insurance. Now, in a broad sense, unfortunately, insurance is the only commodity of trade or commerce, that is not handled on business principles. You could not go to a bank and borrow money as easily or as cheaply as you can go to an insurance company and procure a policy of insurance. And I won't be offending the insurance community as a whole by saying where we have probably four hundred fire insurance companies in this country, that of that whole four hundred, not over 25 or 30 are managed on business principles.

Q. Develop that idea a little further, with reference to New York city, your illustration of bad management? A. I think as far as New York city is concerned, I think the great mistake of insurance companies that are writing in this city, is assuming a greater liability in congested centers in proportion to its assets, than it has conservatively a right to take.

Q. Do you think that should be limited by law; that no company should be permitted to accept insurance above a certain ratio to capital and surplus in what might be called the conflagration district? A. Take a large company which is successful; it will regulate by block lines, the district, how much of its capital they will risk against conflagration. But take a small company of $200,000 capital, and $200,000 surplus, with total assets of $500,000, and they will write a greater amount in that same center, than a company like the Continental, the German-American, or the Royal. In other words, they will gamble on the posibility of the district not burning, more than ninety per cent of the people who buy policies of insurance are not familiar with the indemnity they are securing. They rely on this single assumption, that any insurance company that has received a certificate to do business in this State has to deposit its money in Albany.

Judge BRUCE: Do you think such companies ought to be limited by law?

The WITNESS: I think insurance capital should be limited, in the same way as banks now are; not to risk over ten per cent of its capital and surplus upon any one individual risk, subject to one fire, except conflagration.

Q. Except conflagration? A. Yes; except conflagration.

Q. That is what the law is now, isn't it? A. I don't know what the ruling of the department of New York is. I know the ruling in Massachusetts. But I haven't got through trying to define yet.

Q. The law is, it shall not risk itself to any greater extent than ten per cent on any one risk; you think that should be defined? A. To one in four walls.

Q. Within four walls? A. Yes, sir.

Chairman MERRITT: You would not, then, in a building of many stories, treat each story as a separate risk?

The WITNESS: Oh, no, I would mean the entire building, if it had ten or twenty stories, under one roof, as one risk. I would not consider each story to be a separate building.

The CHAIRMAN: Don't they sometimes?

The WITNESS: What?

Chairman MERRITT: Don't they sometimes?

The WITNESS: Well, it is pretty hard to tell how the underwriting is done, too much gambling is done in fire insurance. As I have said, an insurance company with $500,000 assets may take $500,000,000 risk between Chambers and Fourteenth streets, and Fourth Avenue and West Broadway. Now, they have only $500,000 assets, and gamble, and if New York doesn't burn down, they have received premiums on $500,000,000, if it burns down they are wiped out anyway.

Q. If it burns down, they won't pay that $500,000,000? A. A receiver will pay probably ten cents on the dollar, if he has enough money left to pay his counsel.

Judge BRUCE: Now, Mr. Tanenbaum, a step further; do you think the amount they should have at risk in any conflagration district should be limited by law, that is the real question in which the people are interested?

The WITNESS: Yes, sir; they ought to be limited; the congested centers of all cities ought to be limited by districts, whether it is the insurance department or the Legislature or a committee, or whoever it may be, they ought to limit insurance capital from underwriting exceeding a percentage of their gross assets in certain sections. In other words, they have no right to mislead the public, into paying a premium which they cannot repay in the event of their being called upon to do so. San Francisco illustrated that.

In San Francisco there were German companies that had four or five hundred thousand dollars assets, that underwrote four or five million dollars, and they paid ten cents on the dollar. We have got foreign companies doing business in this country with total assets between five and six hundred thousand dollars, underwriting three or four million dollars in our congested districts; and have got other companies of $25,000,000 assets not writing as large liabilities in that same center as these small companies are; because they are not going to risk their capital, and they are going to maintain their integrity in case a fire occurs; while the small company will go on the principle of a gamble; they are after the premium, whether the company lives or dies.

Chairman MERRITT: It is easier to risk what you haven't got than what you have?

The WITNESS: To risk somebody else's money. In the city of Baltimore you had the same illustration. All the local companies, with the exception of two, were burned out. A company as large as the Fireman's Insurance Company of Baltimore, which had assets of probably a million and a quarter, had three or more million dollars at risk in the limited section of Baltimore destroyed. They were a local company. I think they paid about 50 or 60 cents on the dollar.

By Mr. HURRELL:

Q. Suppose you restricted that, so that the companies could not gamble in that way; you would have this congested district in New York city crying for insurance, which they could not get? A. No; you would not.

Q. How would you supply it? Suppose you restricted it so as to take the gambling element, with reference to the congested districts, away from the companies; who would you apply to to obtain such insurance as you wouldn't get from them? A. I would supply it on the same principle the merchant gets credit. If a merchant has a capital of $50,000, he may go to a commission house, or to a bank, and ask for credit, and he may receive $5,000 credit from that bank, or that commission merchant. He says, "I can do a larger business," and the credit man says, "Get additional capital." I would say to the small insurance company that wants

to increase its business, having its plant established, increase your capital, increase your assets to meet your liability. Now, then, increase your capital within the limits of your underwriting rights, according to law. Now, a great many of those small insurance companies have a large enough surplus to be able to increase their capital.

Q. Of course, their surplus — you would not undertake to say there was anything wrong with a company figuring upon its surplus in the same way it would figure upon its capital; surplus is capital? A. Surplus is part capital; but under the law you would define surplus and capital as capital; they would have the right to underwrite as much as their combined capital and surplus.

Q. So, if that is so, you would not gain anything by changing it from surplus to capital in the small companies. A. Excepting this, if you were a shareholder in a company which has a book value of say, $150, and also a shareholder in a company whose book value was $2,000, you would be much more ready to subscribe for additional capital in that company, than you would be in the company whose book value was $150.

Q. That is, you are answering my question as to this additional insurance, from the fact that the stockholders already in the company, the State would call upon them to increase their capital, and if they wanted to carry larger lines, the capital would flow from the present stockholders?

Chairman MERRITT: He proposes to have it come from the present members.

The WITNESS: You take foreign capital; German and English capital seeks its market here, by making a profit out of insurance. They bring in only a limited amount of assets, and leave the bulk of their assets in England. In the event of the destruction of New York, or any of the congested centers, some of the foreign companies have four or five million dollars assets, and they have assumed liabilities of fifteen to twenty million dollars in the same districts. If it is good business policy for them to get this business, they would simply have to apportion their assets to the liabilities. If a loss occured, they would simply apportion their assets here to the liabilities, as the German companies did. I think the policy holders here ought to have the protection of the State through

the Insurance Department, or through adequate laws, to know when they buy a policy of indemnity that there is capital assets back of that to meet a loss when it occurs.

Q. You have answered my questions as to the domestic companies, and possibly as to the foreign; I want to clear it up; do you believe that if a rule of that kind were enforced, that is, if a foreign company wanted to carry $20,000,000 in this market, it should be forced to put up more assets, do you think they would want to risk it? A. I think the foreign companies that are doing a profitable business here, would be willing to furnish additional capital. They have done it over and over again. At times the losses have been large; and the companies have sent funds over and replenished their treasury here.

Q. But they didn't have to do it? A. They wouldn't do it unless they had to do it; they advanced the funds, these large foreign companies, doing business all over the world, and they have the facilities for transferring funds from their home market, if the business is profitable in this country, they will replenish their treasury; if they don't do so, it is the best evidence in the world they do not intend to pay in full when a loss occurs; and you are bound to have a loss.

Q. Mr. Tanenbaum, isn't it a fact, or I believe it to be a fact, that in the matter of life insurance, for instance, that the Equitable, doing business in France, the French government requires them to have on the spot, securities, tangible securities, or money, whatever it may be, to permit them to pay all the losses to the extent that they insure in that country? A. No. I think not. I think the Equitable is bound, as all these life companies, to deposit a certain amount of their money in a fund in that particular country, the same as some of our fire insurance companies have to do in Pennsylvania and in Oregon, before they might write a certain amount.

Q. Not the face amount? A. No. They probably may have at risk a hundred million dollars in France. They are not compelled to leave the full amount. The laws are more stringent in Germany to deal with where they have to set aside a certain amount of reserve in Germany, and have as much money as we call for, in German hands.

Q. We want to change that around in this country in the same

way? A. I do not mean to cover the whole country. I mean covering the congested centres.

By Judge Bruce:

Q. Would you have those centres defined? By the department? A. I think the insurance department ought to have the authority to define those centres. I understand in Illinois it is not law, but it is a requirement of the insurance department, that when the insurance companies file their annual statement they are compelled to report under oath with their statement, the amount they have at risk in the dry goods congested centre of Chicago, and it is published.

By Chairman Merritt:

Q. The fire marshal of the municipal administration delimits those regions? A. I think that could be handled more intelligently by a combination of the insurance department and the head of the Board of Underwriters who would thus assist to reconstruct the enormous liability assumed by insuring companies.

Q. You would have to have some way of having it generally understood and known, as a matter of fact, in law, what the particular section of a city like New York was the congested district. It is generally understood by the insurance people, of course, and by the public, so far as they come in contact with them, but they would have, in order to reach that purpose, to report the limitation of risk to capital in the particular district. You would have to have some authority with a firm power and right and duty to describe the bonds of the particular district? A. Well, I think your banking laws give you authority and limit the banks as to how they can conduct business and I should think it could be in this. They limit as to how much they can loan to an individual or any individual corporation, and thereby the banking laws are conserved.

Q. It could be done? A. It could be done. Now in New York city, when I say district, I do not mean to say one district in New York. The entire district south of 59th street is subject to two or three fires arising at the same time in different sections of

the city. You take New York city. We have probably half a dozen spots where we have got what we call conflagration breeders.

By Mr. HURRELL:

Q. Conflagration breeders? A. Conflagration breeders. They are a germ. It does not take much to start them. We have troubles in a city like New York. We have troubles. You have labor troubles, and you have a class of dishonest people doing business who take advantage of conditions, and knowing the fire department may be called in the upper part of the city with the entire apparatus to control a fire, who might take advantage of the conditions and set fire to their factory. You cannot tell where would be the end of that. We have three or four fires, and like in 1888 when we had the big blizzard. I think it was March 12th. No fire department could control a fire under such atmospheric conditions, and we had three or four fires burning, as we did in San Francisco. Of course we will say that New York is not subjected like San Francisco. It was subject to earthquakes. Now, we are subject to conditions almost as bad as earthquakes. We are now building large water mains in New York and in tunnels. We are blasting in New York all the time. Now, you blast and disturb one of your mains running through the heart of the city and you have no water to fight fire with and you employ a class of men, you are bound to employ Italians, who are careless, more or less careless with dynamite and other explosives, and you take one of your mains running through the heart of your city, and you have constantly a source of danger should one burst and be out of commission, and you have two fires at once; say one in a printing office, house district or swamp, and near at the Broadway Central Hotel, with a slight wind driving in all directions, and where is New York?

By Judge BRUCE:

Q. Now, Mr. Tanenbaum, you will recall I was speaking to you about insurance being an assessment after you had spoken of the so-called purposes of the New York Fire Insurance Exchange. Now, I would like to ask you this question, Mr. Tanenbaum: The New York Fire Insurance Exchange now controls the market for insur-

ance in the Metropolitan district, does it not? A. It does, practically.

Q. And regulates the rate? A. Yes, sir.

Q. And the commodity is a necessity? A. Yes, sir.

Q. Don't you think that any government which permits that should reserve to itself the right of regulation? A. Beyond doubt.

Q. And supervision? A. Yes, to a conservative extent. I do not think that the government ought to go to insurance companies and say, "You must write this risk at that price," and not leave a margin of profit.

Q. I was not speaking of rates in the first instance, but it should reserve to itself the right of supervision or regulation? A. Yes; the same as it does railroad rates.

By Chairman MERRITT:

Q. Then, as you could make the company sell the contract, you can make the railroad carry the freight? A. Well, it is a different proposition. You cannot. It would be unfair to force an insurance company to take a contract. I will give you an illustration that occurred to-day; to underwrite in the Brownsville district in New York.

By Mr. HURRELL:

Q. You would not want to do it? A. I do not think it is a fair proposition. I do not think if you were an underwriter you would want to underwrite there. I was not referring to any specific class, but the class of people that live there are farmers, foreigners, who are ignorant of the customs of taking care of their property and who are more or less careless in their habits, and in the event of a fire they would all yell and the fire department, when it reached there, instead of putting the fire out, would try to save life, instead of property, you would have a conflagration in that district.

Now, I want to show you a conflagration. I think Professor Whitney can help me out. (Producing a large photographic reproduction of San Francisco fire.)

Here is, in concrete form, the city of San Francisco, which is a circle. Now, New York is built somewhat like this, except the

streets are not hilly. We have not the hills, or we do not in the lower part of the city.

Now, the area is much larger here in New York than it is down here (indicating).

Now, let us take New York as a city and assume that a fire occurred in three different sections, as Professor Whitney would point out, you would be beyond the protection of the fire department. You would be at the mercy of the elements and the Almighty.

Now, that occurred through the mains being broken, or assumed to be, by an earthquake.

Q. What do you mean by that? A. These fires, when they started, were different fires. There are practically three distinct fires in three different parts of the city, and there was no water in the mains and no fire-fighting facilities, and they burned this out, except when the United States government troops came there, I believe Professor Whitney can tell you, by blowing up dynamite they kept the fire up on the hill.

Professor WHITNEY: For three days and nights they were setting off charges of dynamite; they went off every two or three minutes right straight along to try and check it.

The WITNESS: Now, there is nothing in the world, under similar conditions—well, we would not have an earthquake, but if any of our mains were disabled ——

By Chairman MERRITT:

Q. (Interrupting) How do you know we would not have any? A. I do not know. I think it is assumed — now, that is an illustration up here (explaining the photograph).

By Mr. HURRELL:

Q. Now, as I get you, Mr. Tanenbaum, you say that picture of burning San Francisco shows three fires burning at the same time? A. Yes, sir.

Q. And you claim that the same thing is possible in New York city if the water mains were interfered with, so that it is altogether possible, under certain conditions, that New York might have a

similar conflagration as San Francisco had? A. Not only possible, but probable. There are times when our mains here — I live on the west side of the city, and I know — that at times, for twenty-four hours at a time, we were unable to get water to drink, and if we were unable to get water to drink, you would have no water to fight fires.

Q. And you say, because of that condition, you think the laws should be corrected so that the companies would not gamble on the district, and if they cannot conduct their business along safe underwriting hands —— A. (Interrupting) Not only the district. I do not think they ought to gamble in the city of New York. I think they ought to furnish indemnity so that they would pay one hundred cents on the dollar if New York city was destroyed by fire.

Q. Did you ever hear that in the city of Chicago, where this rule was put in operation by the Insurance Department, that when the department make the facts public concerning the amount of risks that the various companies had in the congested districts in Chicago, that the merchants asked that that information be suppressed, because they could not get insurance as a result of it? A. No, sir. Quite the contrary. I think the merchants regulated the purchase of their insurance according to statements rendered, and selected the company that, in their judgment, furnished conservative underwriting.

Q. And you think it would be a good thing in that it would tend to shake out the companies that were doing a gambling underwriting to have the facts published concerning the amount that each company had at risk in the congested valued districts of the various cities? A. Yes, sir. I think it would be a duty to the people.

By Chairman MERRITT:

Q. Coming back to the picture, as I understand you, and this is a new idea to me, in the district in San Francisco the earthquake was only the proximate cause. The immediate cause was the lack of water? A. That was the secondary cause.

Q. The earthquake produced that, but the real thing that caused the destruction of the city was the fact that water mains were out of commission, and that might happen from other influences than earthquake. It might happen from earthquake, and might happen

anywhere; it might happen here if something interfered with the water mains of the city of New York? A. It has happened in the city of New York. If any of you gentlemen remember when the building burned down at the corner of Nassau and Fulton street, in broad daylight, about half past ten, fifteen or eighteen years ago. It was a newspaper office, and took fire about half past ten, and there was no water, and that building burned down. I think it occurred in 1888 or 1889, right on the corner of Fulton and Nassau streets, and we have that happen very frequently in parts of the city here where the water supply is turned on during the day, where the manufacturing establishments use the water and the pressure is weak, and no stream of water would reach over seventy-five feet high. You would be unable to control a fire in the middle of a day to-day in some of the manufacturing districts.

By Chairman Merritt:

Q. I suppose the water could not be carried anywheres near the height of some of the buildings in New York city now? A. No, I do not think so.

Chairman Merritt: The Committee will stand adjourned until 10:30 o'clock to-morrow.

Adjourned to Tuesday, December 20th, 1910, at 10:30 a. m.

THIRTY-FIFTH PUBLIC SESSION OF THE LEGISLATIVE INVESTIGATING COMMITTEE.

Aldermanic Chamber, City Hall,

New York, *December* 20th, 1910 — 10.30 A. M.

Present — Hon. Edwin A. Merritt, Jr., *Chairman.*
Hon. Alexander Brough, *Vice-Chairman.*
Hon. Victor M. Allen.
Hon. Robert F. Wagner.
Hon. William W. Colne.
Hon. Frederick R. Toombs.
Hon. James A. Foley.

Hon. M. Linn Bruce, *Counsel.*
Alfred Hurrell, Esq., *Assistant Counsel.*

Chairman Merritt: The Committee will be in order.

Moses Tanenbaum, recalled for further examination.

By Mr. Hurrell:

Mr. Tanenbaum, you were talking last night — you were emphasizing the fact that the city of New York was liable to a conflagration, drawing the conclusion from that that a correct practice would indicate that companies should not be permitted to write in excess of their assets in the congested value districts. The situation, as the Committee has had it outlined heretofore, is that there are not enough insurance companies in the State to write the necessary insurance in the congested valued districts now. What I would like to ask you is to develop further your answer; that there would be insurance here to meet the need after you had cut out from the congested district a large portion of the insurance there now? A.

Our drygoods district would be called our congested district proper; practically bounded — the lower district is practically bounded by Chambers street on the south and Canal street on the north, Lafayette street on the east and West Broadway on the west. That is what we call the lower congested district. The values in that district have been materially reduced in the last ten years. A great many of the merchants who have heavy stocks in Worth street, Leonard street, and other sections, have distributed those stocks in other parts of the city. Other commission merchants simply use samples, pieces of merchandise, and carry the bulk of their values in warehouses; or permit the goods to remain in mills until they are ordered delivered to the merchant. So that to-day, practically, eliminating the values on Thomas street, Worth street, Leonard street and one or two blocks on Broadway, I don't think that there is 25 per cent of the value remaining in the lower congested district that there was ten years ago. Unfortunately the property, the buildings, in that district, is owned chiefly by large estates, hospitals and charitable institutions, who have made not very much improvement to their property. A great many of those buildings are hollow iron fronts construction; and there has been no improvement in the shape of fire construction, such as sprinklers. A great many of these old-style structures are occupied by manufacturing tenants. If the insurance capacity were restricted in that district it would simply mean that the property owners, in order to conform with the requirements of tenants and maintain them as tenants, would be compelled to adopt and install fire protection appliances, or these tenants would scatter their merchandise; they would show their sample stocks in that district and place their stocks in other parts of the city where the cost of rental is less, deliver from those places, and simply use samples in those districts, and thereby reduce the heavy values in that district.

Q. Then you would undertake to say that restriction of insurance, in your judgment, would lead to the betterment of the buildings in the congested valued districts? A. Yes, sir.

Q. And that would be so because they would be driven to improve in order to get the insurance which they could not get under the present circumstances? A. The intelligent merchant to-day, in endeavoring to locate his business, will consider, first, the cost

of rental per square foot; second, the area, and third, the cost of his insurance and the ability to get insurance. Now, if he finds that this insurance is restricted in specific houses he will consult his broker, and the broker will, as a general rule, seek the market to learn the facilities he will have of procuring insurance, the cost of the insurance, and he will report that back to his principal; and the principal will then locate in accordance with that, considering the cost of the insurance, and his ability to procure insurance. In other words, instead of centralizing our values in that district, they will be scattered in different locations, and therefore a merchant that claims he cannot procure additional insurance for the restricted insurance district will adopt the other way, of meeting the requirements, by locating in other districts, and having his sample room to display his merchandise, and shipping from some other location.

I will give you an illustration which does not apply to this specific case, the drygoods district. We place the insurance on quite a number of department stores. In this specific case I have in mind, we had to procure insurance on the store, which happened to be on Sixth avenue, and the rental value per square foot, without figuring the value of the land or the value of the building, was five dollars per square foot. It was their intention to maintain and carry a great deal of their surplus stock in that building; and they intended to add to their structure by building two or three additional stories. The subject was submitted to me for consideration and I advised them that, in the first place, by carrying the entire amount of furniture and other combustible merchandise in their premises, they endangered their premises by rush hazard there; that the value of their property per square foot was four times as great as they could locate on 25th, 26th or 27th streets, between 8th and 9th avenues, adjacent to their own property. And after considering that matter they purchased land, built a structure, and carried their stock of furniture, groceries, willowware and other hazardous merchandise, in that location. They deliver from there. The rental value per square foot is 75 cents, as against $4 on Sixth avenue. Their insurance is one-third of what it was, and the result is that we are able excess of their assets in the congested value districts. The situation to procure more insurance than we require in that specific store, and

an over-abundance in the building west of Ninth avenue. We have thereby scattered the values. In other words, we have endeavored in that intelligent manner to convince the business man who is not compelled to carry under one single roof an enormous amount of merchandise.

Q. So you think that would answer my question? A. That is an answer to your question.

Q. You scattered the value? A. Yes.

Q. And you would not have any congested value district? A. No; we do not have any heavy stock. When you get north of Canal street, take the location from Canal to Houston street, or Bleecker street, that is the second section. That location has been materially improved by the addition of many fire-proof structures. I have a plan here. (Witness illustrates by referring to illustration.) Consequently you have more fire stops there; so that, while you might have one or two fires, there are enough fire-proof structures to prevent the spread of the fire. Have you got that plan there?

Q. Do you mean this map? (Indicates.) A. No, that other plan. Let me illustrate. (Witness produces plan and uses it for illustrating purposes.) These chocolate-colored parts show fire-proof buildings; these in red show buildings protected by automatic sprinklers. This is in the lower part of the city, this line is Chambers street. You may call this the line below the congested centre. Now, you will notice that all up here (indicates) you have a solid mass of fire-proof buildings. Along here (indicates) you have nothing, along this section. Our winds are mostly from the southwest. You might have a fire start down here (indicates), along here (indicates), and sweep out this section. And that same condition might follow along the east side; but there is hardly any possibility with this solid wall (indicates). Here is Wall street (indicates), every structure in Wall street from Broadway to Pearl street is of fire-proof construction, and under no circumstances is there any possibility of fire spreading beyond that line, unless it crept up here (indicates) and went through that line. You have another fire-proof line here, along Pine street and Cedar street; and you have one along Liberty; and we notice, particularly, that the only hazardous part along here is the tobacco district and the district east of Pearl street, and the district then running north to

Brooklyn Bridge. The section is called Printers' Row, with old-style buildings. The buildings are occupied by miscellaneous printers. And that, again, would be cut off on the north by Brooklyn Bridge and by these fire-proof constructions, the municipal buildings along here (indicates). Now, that is, we practically cut off the buildings along the river front when we get north of here (indicates).

Now, there on Chambers street and Canal street, we have got a number of buildings here — the red ones indicate sprinklers — here is the New York Life Building and the Criminal Courts Building and one or two fire-proof structures, but there is no fire stop west of Broadway of any consequence. A fire could start here (indicates) and sweep clean up to Canal street, and there is no fire-proof structure of any consequence in that section.

Q. West of Broadway? A. West of Broadway, to West Broadway; and there are only about six or seven fire-proof structures east of Broadway; you have the New York Life Building and you have the Bradstreet structures, and you have several small buildings. The values east of Broadway are nominal compared with values west of Broadway. The greatest values in the lower drygoods district are centralized in Thomas street, in Worth street, in Leonard street and the south side of Franklin street; there are some values on Church street and Broadway in this section. When you get north of White street this entire section is changed. There is any number of buildings empty; and the tenants have moved, gone north of 14th street. There are a lot of old-style structures on Walker street; the values are nominal. The insurance companies look upon that as a poor section to underwrite. So, to-day, the values in this centre are one-quarter what they were ten years ago.

Now, let us take Worth street. Worth street on both sides is built up of hollow-front, tall iron structures. The heaviest values in that lower congested district are in the commission-house district, Thomas, Worth, Leonard and lower side of Franklin street, and along Church street, the most valuable structure being Claflin's property. The buildings on Thomas and Worth street, on both sides of the street, are chiefly constructed of what is called hollow-iron front columns. A great many of these buildings are owned by the New York Hospital, being constructed in the latter part of

1868. And we have had, years ago, very heavy fires in that section. We had a very bad fire there two or three years ago. The values to-day in this entire district are not a quarter in amount to what they were ten years ago. Consequently, the district from Chambers street to Canal street, from the west side of Broadway to West Broadway, can procure by improvement in the class of construction all the insurance it would reasonably require.

Q. You mean to-day? A. To-day.

Q. Do I understand that, according to this, because of lack of improvements or proper construction in this district, which you call the conflagration district, insurance is restricted? A. Yes, sir.

Q. Then that district, that the value of goods there, has been lessened to such an extent that there is adequate insurance to be procured in there now? And that if there was some fire-proof structures put up in place of these —— A. Hollow iron structures.

Q. Hollow iron structures, that companies would insure in there that will not do so now? A. Yes, sir. In other words, the insurance companies who carried $5,000 on a Worth street commission house stock, in the same building, if constructed of fire-proof construction, separated by fire walls, as you have here on Wall street, that company would carry $20,000 on that identical risk; carrying four times the present amount.

Q. Do you figure the conflagration district of New York from Canal street? A. No. I do, to an extent. The side east of Pearl street and west of West Broadway, along what we call our river front, I consider each a congested district in itself ——

By Judge BRUCE:

Q. Conflagration district? A. Each a conflagration district in itself. In other words, I should consider east of Pearl street and west of West Broadway and south of Canal street, each one a conflagration district; each one of those sections subject to being destroyed by fire. I do not consider that the banking district or office building district is subject to being destroyed by fire.

By Mr. HURRELL:

Q. Suppose the calamity which you suggested last night would occur, the bursting of a water main or something should occur that the flow of water was impeded? A. I think you could burn one or

two or three floors out in a fire-proof constructed business building. You might burn one or two or three floors in an office building, but dependent upon the nature of the contents of that building; if there was combustible material, office furniture and fixtures.

Q. Suppose you had a conflagration right down around this center, do you think the fire-proof buildings would hold the fire? A. Yes, sir.

Q. Even without the intervention of the fire department, assuming the worst could happen? A. I think it would burn out one or two or three floors. If the fire were in the lower floor, the upper floors might burn out. Every fire — let me give you an illustration: The building across the street, the Home Life Building, now this Rogers Peet Building was a building that was destroyed in 1899. That was an ordinary-constructed building, and not considered hazardous. That took fire. This was the Home Life Building (indicating on a photograph). The wind was northeast. That fire crawled up through this opening and destroyed the upper portion of this building, so that the Home Life people were practically compelled to tear down their iron and stone front and upper part of this structure from the sixth floor up. This was apparently, at that time, considered a fire-proof building. Now, if you had a conflagration, the possibilities are that the trim and contents of these rooms would not be burned out. The fire would be held in those buildings for a long time. It would not destroy very many buildings. If you had an area of these fire-proof buildings constructed in any part of the fire-proof district, you could not have a conflagration.

Q. Wasn't this building pretty well gutted? A. Yes; all gutted. Irrespective of that, this building was (indicating a building) damaged somewhat by water. Regardless of this emergency, I think there ought to be a law adopted in New York city where all the mercantile basements ought to be protected by automatic sprinklers, and where a building above the tenth or eleventh floor ought to have fire-resisting appliances of its own. If a building is one hundred feet high, and the ordinary fire department is unable to reach it, I think these high buildings ought to be protected.

By Chairman Merritt:

Q. It ought to be one of the conditions to getting consent from the Building Department in erecting structures to the insurance?

A. Well, that is a local matter. Now, I have drifted from that subject of showing what the fire-proof stops or walls would do.

By Mr. HURRELL:

Q. Yes. A. Now, we will take the second section. You take from Canal street to Bleecker street, and from Lafayette street to West Broadway. We have, between Canal and Broome streets, about a dozen low fire-proof buildings, six to eight to ten to twelve stories high. We have got a number of fire-proof buildings there. You will perceive the consecutive buildings protected by automatic sprinklers. These combined should hold a fire within this boundary (indicating).

Q. If it started inside of a building? A. If it started inside the building. That property will not be protected by conflagration starting or destroying property from the outside.

Now, when you get to Spring street you will find, on the west side of Broadway and the north side of Prince street, six to eight fire-proof buildings, adjoining one another, a fire stop. When you get to the east side of Broadway, and on the east side of Spring street, you have the Havemeyer property and two or three other buildings, ten solid fire-proof structures, which are all protected, with the exception of two, by sprinklers. They are fire stops. When you get to West Houston street you have quite a number, and when you get to Bleecker street you have quite a number of them. You have all along here property known as the commercial buildings, owned by the Randolph Guggenheimer estate, running from Washington place to Waverly place. You have here the old University building. Those are all fire stops. This center here from Canal to Bleecker street is far better protected than the lower center.

By Chairman MERRITT:

Q. Do they give any consideration in rates by reason of that? A. They are adding to the number of fire-proof buildings.

Q. Generally, I mean, is it reflected in the rates on this adjacent property; this condition? A. No.

Q. It has never been adjusted? A. No. I think that is in process of adjustment now. I think last week the excess charges were eliminated. There have been no excess charges since the San

Francisco fire on fire-proof buildings. They have never been penalized. They are not penalized by any excess charges.

Q. That is on account of the cost the San Francisco fire spread? A. Yes.

By Judge Bruce:

Q. Now, Mr. Tanenbaum, if the lower part of Manhattan naturally divides itself into conflagration districts, how would you bound these districts in the event you were called upon to state what are the conflagration districts in which a company should not write more than a certain proportion of insurance? A. Well, I should bound them by Chambers street; I should bound them by Canal street; bound them by Bleecker street and by 14th street.

Q. River to river? A. No; I would subdivide them. I would take the east side of Broadway as one line and the west side of Broadway as another. By that I do not go from Broadway to the river; in the west side of Broadway up to 14th street. There are heavy values on the river front here (indicating), but on the east side of Broadway I should provide that line from Broadway to Bowery. Bowery is quite wide. I should not class within this section property occupied by dwelling houses and tenements on the east side.

By Mr. Hurrell:

Q. Well, if they remedied this by restriction of the underwriting abilities of companies, or rather the underwriting practices of companies, if it should result in what you say, it would result in this: The spreading of values so as to take out that congestion, so to speak. It would only be a few years before you would have to reconstruct the statute, if you confined the district in the statute to-day by streets, wouldn't it? A. No. I do not think so. Of course, there is no doubt in my mind that inside of ten years every block south of 59th street would be used for business purposes in the city of New York, and I further realize that by reason of labor conditions, and high rents in New York, that a great many of the manufacturers are locating in Brooklyn, and Busch terminals and other buildings that will be constructed for that purpose of receiv-

ing manufacturing properties, and that our city will be a great deal like London and Paris; that the merchandise will be shown by sample; that the large houses will have small offices here, and sell their merchandise from New York, and ship it from the warehouses, or from their factories, and if the building laws are strictly enforced, and these new buildings which are in process of construction now, are built of fire-proof construction and fire-resisting appliances employed, you would not have to employ that stringent measure on property north of 23d street.

Q. Supposing the majority of the district got built up like this wall, Pine and Cedar streets district, by fire-proof buildings. If that happened generally, so the chances of conflagration were lessened, then there would not be such a need for the rule you suggested here, would there? A. There would not be, but we would not have that condition.

Q. You say, put it in the form of a statute, and when it comes reconstruction time, change it? A. Like a disease; when you have discovered the disease, remedy it. I think the city of New York ought to be divided south of 34th street into six or eight centers.

By Judge BRUCE:

Q. The power to fix the boundaries of conflagration districts should not be a matter of statute, but should it not be located in the Department of Insurance? Should it not be more elastic, so it could be changed? A. Should be under the control of the Department of Insurance; I think so. I think that should be in the power of the Insurance Department. When you get north of 14th street you have the park, and as you will find here a section that is now being built up, west of 5th avenue, this entire section all through here is being built up by fire-proof, or semi-fire-proof buildings, designed for manufacturing purposes. All through here (indicating) you will have fire-proof structures, or semi-fire-proof structures. North of 14th street it is less than it is below 14th street, liable to conflagration.

By Mr. HURRELL:

Q. Whenever new buildings are erected in business New York, they usually take the form of fire-proof buildings? A. No. Not

all. A great many buildings are being built up by speculators in the cheapest manner possible, for the purpose of securing a good investment, and south of 23d street is practically the line. That is the way the city lies. You take — here is 4th avenue, for instance, and you go from 4th avenue east to the river and you have a conflagration center; old-style structures.

Q. Now, what do you think would be the immediate effect of such a rule as that? There certainly would be a lot of merchandise in this town that would not have insurance if a law —— A. (Interrupting) I do not think so. I think there would be a readjustment of conditions, the same as there would be a readjustment of conditions in business if you adopted a new tariff law.

Q. Well, of course, the readjustment could not come within six months at least, could it? A. Well, I think it would take about a year to readjust those conditions.

Q. Don't you believe that there would have to be an increase of capital, an increase of insuring organizations, in order to cover the situation even then? A. Well, I think that the law ought to be amended in this State to permit additional inter-insurance companies, or additional Lloyds, or mutual insurance companies, or any other form of insurance companies organizing, provided they conformed with the law.

Q. Yes. A. And that other classes of underwriting or insuring bodies be placed on a parity with the ordinary stock companies. In other words, I do not think inter-insuring bodies, merchants insuring one another, ought to be granted more freedom or privilege — or New England mutuals — any greater privilege than ordinary stock companies.

Q. You are familiar with Mr. Waters' reciprocal underwriters? A. Yes, sir.

Q. We spoke of the mill mutuals — we discussed this yesterday, and you agreed then that it would be a good thing to have them, provided they paid the same taxes that the stock companies paid in this State? A. And their lines were limited.

Q. What? A. And their lines were limited, the same as the stock companies' lines were limited by law.

Q. You mean they should not be allowed to write more than —— A. (Interrupting) Ten per cent on any one risk.

Q. I am interested in what you say about the inter-insurance bodies. As I understand Mr. Waters' underwriters, they were a certain number of merchants, who, being unable to procure insurance, agreed among themselves that they would bear each other's risks in certain proportions; that is substantially what their claim was, was it? A. Yes, sir.

Q. Now, assuming that an insurance company of that kind is used for that purpose, covering risks when the stock companies cannot cover it, why should the individual merchants be taxed because they enter into that agreement with each other? A. Well, they are going into the insurance business for the purpose of making money out of it. They are in another line of business besides their own. That business has now spread out. In addition to insurance — that one thing is a matter of necessity by people employing a broker — they are going into the business for the purpose of profit.

Q. They are not profiting at the expense of the public, are they?

Chairman MERRITT: What is the public?

Mr. HURRELL: Third persons, not in the institution.

A. Well, now, eliminating Mr. Waters, and taking as an illustration, let me take abstracts of facts which I am more familiar with than I am with Mr. Waters' bodies.

Q. Along the same lines? A. The same lines. I am not thoroughly familiar with Mr. Waters' methods, except that he is very successful, and is capable of underwriting very large lines, and quite a number of the lines carried by Mr. Waters could be placed with stock insurance companies without any difficulty. The class of business he underwrites is very choice business. Let us take the American Exchange Underwriters, controlled by Weed & Kennedy. Mr. Kennedy, I think, is known to this Committee. The American Exchange was organized by Weed & Kennedy for the purpose of entering the insurance business, and Weed & Kennedy were appointed the agents. They receive a compensation of approximately 15 per cent, the same as if they were brokers and agents, and they circularized the business community showing the advantages I have a circular here showing the profit they made in underwriting. There is a copy of their circular (handing a paper to Mr. Hurrell). Now, they are in the insur-

ance field competing with the insurance companies that are paying taxes in every county and every city, and conforming with the law of every State, and those underwrwiters pay Weed & Kennedy the same per cent of commission that a broker receives from the insurance companies. In other words, they receive as reunmeration for their services the sum of 15 per cent, the average commission a broker receives is 15 per cent. Now, if you will look over the list of their subscribers, you will find, with the exception of possibly six or eight houses that every one of these gentlemen and business houses is capable—I will modify that by saying a dozen houses—is capable of procuring all the insurance they require in reputable stock or mutual companies.

By Mr. Hurrell:

Q. I do not notice on this circular you handed me that there was any statement about the profit made in there. They talk about the very small cost of insurance, but I do not see that there is a statement of any profit to the underwriters, is there? A. No, that statement I have not here. Let me see. In circularizing they send a letter out, saying that after the setting aside of a nominal amount for emergency fund, the remaining sum is divided amongst the members or insurers.

Q. Well, now, still isn't that simply a plan for these large firms of insuring each other, with the idea of getting good insurance and reducing the cost to themselves? A. (No answer.)

By Chairman Merritt:

Q. Is what you mean by profit, Mr. Tanenbaum, the saving which they demonstrate? A. The amount that, at the end of the fiscal year, the amount of money that remains to the individual credit of each merchant or inter-insurer, after setting aside a fund of $2,000, is divided or returned to these men. It is a saving in the conduct of business.

By Mr. Hurrell:

Q. That is what you mean by saving, they are in it for profit? A. They are in for profit. In fact, these gentlemen are the same as the stockholders of an insurance company.

Q. Well, are they taking risks generally, as other companies? A. They are seeking risks in competition with the stock companies, catering for it and procuring it, and the inducement that they offer ——

Q. Ceases to be simply a mutual protective arrangement, but is a factor in the insurance business? A. The same as the factory mutual insurance company, except that the latter seek only property not subject to conflagration.

By Judge BRUCE:

Q. Well, just a moment, Mr. Tanenbaum; is there any difference between these and factory mutuals? A. Yes; the factory mutuals insurance companies insure only manufacturing plants, isolated and outside of the congested districts of cities.

Q. Which is usually inter-insurance? A. Usually inter-insurance in cities, that of merchants and manufacturers, and if they could procure the insurance of a manufacturing concern, the same as insurance with the associated factory mutuals, they do so.

Q. Well, it is simply the merchant trying to do what the factory owner has done? A. No. The factory owner buys his insurance and he does not share in the profit except in the return of the dividends. The company is managed by a different class of officers who oversee the underwriting of the companies. The company is there managed by officers. These are managed by attorneys, Weed & Kennedy, who practically hold a power of attorney. They control the business, and they receive a power of attorney from you and I to underwrite different risks. They inspect the property before underwriting, and classify it, saving their committee, and if they are fortunate at the end of the year, they set aside a nominal sum, and they reapportion that balance and write to these merchants. Now, they are no different than stockholders in a fire insurance company.

Q. Aren't they analogous in every respect, except management, to the factory mutuals? A. The factory mutual is an insurance company. When your policy expires and you do not renew it, you receive a dividend on that expired policy, and your liability, except for assessment, ceases. Your negotiation with relation to

the company ceases to that extent. This same condition exists, except that the merchants return their entire deposit and profit that has accrued up to that date.

Q. Up to final withdrawing? A. Up to final withdrawing.

Q. Well, then, that is the same as factory mutuals? A. On the same principle.

Q. If the factory mutuals are a good thing for the factory men, why isn't this a good thing for the New York merchants? A. Because to-day they have the advantage of conducting the insurance business, and avoiding taxes in the different States they do business, and competing with the stock companies, and reducing the facilities of the fire insurance companies on the stock basis.

By Chairman MERRITT:

Q. They are taking a certain part of the preferred sort of business? A. They are taking the choice business.

Q. Out of the gross amount that may be had by all the companies, thereby keeping the stock companies from the opportunity of reducing their general rates by reason of having this best class of business? A. They eliminate it; on that principle.

Q. They are mutual to some extent in nature, but in detail, for the purpose of definition only, one class are inter-insuring, and one is mutual? A. In principle.

By Mr. HURRELL:

Q. You have no objection, but you make the comment that these men should pay taxes so they would be under the same burdens as an ordinary corporation? A. They ought to be placed on a parity with an organization that has capital and transacts business, and conforms to our laws, and their lines ought to be restricted the same as the stock companies.

Now, the lines of these underwriters as compared to the stock companies, are ten times as great. The gross assets, approximately, of the American Exchange Underwriters may be $300,000. I want to verify the figures. Now, they are underwriting on any one risk $270,000.

Q. Now, you say their gross assets are $300,000? Do you mean the surplus which has been allowed to accumulate? A. The amount of surplus that has been allowed to accumulate is about $300,000. They will write on any one risk $270,000.

Q. Yes. A. Now, under the power of attorney that is extended to the managers of these underwriters, each underwriter is liable for five or ten times the amount of his subscription.

Q. That is, beyond whatever is there? A. That is beyond the limit of stock insurance companies' privileges to underwrite.

Q. And that is also beyond this which has been allowed to accumulate? A. That has been assumed, and I do not want to mention the names of three or four mercantile houses in the last few years who became financially embarrassed, and creditors took hold of it. If, prior to the publicity of that embarrassment, any large fires occurred in which they had assumed liability, the sufferers would not have been able to recover that proportion from these subscribers.

Q. Of course, that proportion, though, on each individual loss is a comparatively small item? A. No. It is about $2,000.

Q. But $2,000 on a policy on property that aggregates two or three hundred thousand dollars? A. $270,000. Well, it might be small. Now, these same underwriters are carrying in the congested centers of New York — they are carrying twenty risks; they are carrying twenty risks, these particular underwriters, of $2,000 each. They are carrying twenty risks. Now, under their power of attorney, they restrict their liability to not over five or ten times the amount of their subscription as the result of one fire. If you were one of the sufferers, and all this property was destroyed by fire, you would not receive one hundred cents on the dollar. You would only receive your proportion of what the individual subscription bore to the total loss.

Q. What would you suggest? That they be restricted to that ten per cent rule? A. I think they are in the insurance business the same as the stock companies, and ought to be restricted by the same rules that you would restrict stock companies.

Q. Is this true, that every one of these underwriters are large firms? A. Yes, sir.

Q. And they probably enter into this contract with their eyes

altogether open, and the State does not need to protect those men, does it? A. Yes, sir. It ought to protect them, for they need protecting ——

Q. They ought to have brains enough to protect themselves, hadn't they? A. I will give you the reason why they are not able to protect themselves. Now, amongst them you have two concerns in Buffalo, Claussen & Wilson Company, and the William Hengler Company, at Buffalo. If, as I assumed, or illustrated yesterday, there was a possibility of the destruction of the city of New York, or the valued part of the property of New York, these men would be sufferers. These men are conducting a large mercantile business, and are crediting different people in New York on the extent of their ability to recover the amount of the indebtedness of these creditors.

Q. You mean these two Buffalo firms are selling insurance down here? A. No. I am not saying that. I say these New York houses — let us take the firm of Mills & Gibbs, or Lord & Taylor, or James McCreary, or Lacey Whitman — all these are doing a large business in the city of New York, and dealing with merchants and manufacturers who are located in the congested centers. These same merchants are buying insurance from different insurance companies upon the assumption that these insurance companies are able to pay their losses; and they are borrowing money from banks, and if they own real estate they are securing loans on real estate from the attorney representing the trustee of widows or orphans, or they are borrowing from life insurance companies. If the city of New York was injured or destroyed by fire, these merchants will rely on the merchants whom they were selling, for the ability to recover the amount of their indebtedness. The merchants are unable to recover from the insurance company. They are unable to pay their mortgages, except a certain per cent of it, because the insurance companies are unable to meet their obligations. They are in turn, likewise destroyed by fire. Their capital is impaired by their inability following in the calamity, by failing to recover from their debtor the indebtedness due them. So their assets are materially reduced. No matter how strong they may be, destruction by fire of New York city is far-reaching. It will affect a trustee; it will affect widows and orphans; it will

affect the banks and life insurance companies, and other loaners of money. It will certainly affect the man who extended credit, and by the inability of these debtors to pay their creditors, their own financial resources will be impaired, and if a day or two afterwards, Hengler & Company of Buffalo, have their premises injured or destroyed by fire, by what means are you able to recover from these people that suffered, the amount they owed Hengler, their loss by fire. These are very far-reaching, but these are facts. You had a panic in 1907 in New York. The Knickerbocker Trust Company was financially embarrassed. No one knows the results either with any man, or with widows and orphans, tied up in that trust company, who had to go out and seek accommodations, and who had to curb their luxuries in order to secure means of earning a livelihood, and living. Now, during six or eight months, or twelve months, following the Knickerbocker Trust Company failure, the entire business community suffered a panic. Now, a large fire in the congested district, affecting individual merchants, debtors to large merchants, will impair the facilities of these large merchants to procure credit and money to conduct their business.

So, no matter how small or how far-reaching this effect is, it is bound to have a general effect on the entire community. It would not only affect New York, but it would affect other cities.

By Chairman MERRITT:

Q. You mean the general conditions are so interlaced and interlinked? A. Interlinked; yes.

Q. The system should, whatever it is, be uniform? A. Adopted uniform, because one affects the other. It is like a house; you remove one brick from the house, or remove two or three, and you gradually weaken the structure. Now, by this conflagration you weaken the structure of credit on which we all rely.

By Mr. HURRELL:

Q. The point of it all is, you would have the same rules applied to these men as you would have applied to the stock companies, and you would have a further rule which you suggest, and that is of restricting insurance in these congested districts.

By Chairman MERRITT:

Q. So really, when they put up the argument that they are really separate and distinct from the great body of insurers, or insurance companies, they are really the same? A. They affect the community the same as the fire insurance company. They affect the stability of credit. You take a credit man, and if I was a merchant and entered a credit department of Claflin's, and said, "Gentlemen, I want to buy some merchandise," and he said, "Tell me how much you are worth. Let me have a statement," and I would say, "I am worth $100,000;" he said, "I will credit you $10,000 on that statement." He asks me if I am insured. He does not ask where, assuming I am in an individual underwriter, or exchange underwriter. A fire occurs in the place in which I am conducting business, and I may have a weak class of insurance companies that are unable to pay my loss. My bank has a lien on my outstanding indebtedness, as a collateral loan, and I am unable to pay my creditors. He relies on my indebtedness to meet his other obligations. I am insured in one of these reciprocal underwriters, or inter-insurers, and the result is that hundreds of merchants not in New York alone, but throughout the United States, of which there is a whole list here, are affected by my embarrassment. Because one relies on the other to receive the amount of money due the creditor in New York, the whole community is affected.

By Mr. HURRELL:

Q. Take the subject of Lloyds. You have suggested that you would have it made easy for the organization of Lloyds, provided they met the same terms. I take it, you have no further suggestions to offer on that subject? A. Other than, I think today, by the law that is in effect now, you prevent the organization of more individual underwriting bodies, or Lloyds. I think that is unjust.

Q. You do not believe in that? A. I do not believe in that. I do not believe in allowing five or six gentlemen having charters, to have a combination of their own without additional capital being introduced in New York.

Q. Would you say to the individual gentlemen, "You can organize Lloyds, but you have to put up a deposit of a minimum amount, the same as the minimum amount of capital the stock companies are required to have?" A. Yes. No; I do not say that. I won't go that far. Say the fund of the individual insurer, or inter-insurer, or one of these individual underwriting bodies, is $4,000 at the end of the year. Let us say it is $5,000. If it is $4,000, that $4,000 remains to its credit. The $1,000 above the $4,000 is returned to him. If these bodies were compelled to accumulate their profits into a surplus, or each one of them would be compelled to have ten or twelve, or fifteen thousand dollars to his credit, which, multiplied by one hundred, would give them gross assets of a million and a half, they would be in position to meet ten or twelve ordinary losses.

Q. Well, then, you would have that statute amended to permit gentlemen to organize themselves into a Lloyds with no deposit to begin with? A. No. I would not. I would compel them to make a cash deposit.

Q. Of how much, say? A. Well, I should compel them to make a deposit equivalent to the amount of their liability on four or five, or six, or ten, individual risks, and compel them to scatter their liabilities. They ought to be under the supervision of the Insurance Department, the same as I suggest to you, to compel the insurance companies to restrict their liabilities in the congested centers. Now, I will illustrate to you, if you will permit me to, the enormous liabilities that were assumed by companies at San Francisco, and the manner in which they liquidated their indebtedness.

Q. Well, we are rather rushed for time, Mr. Tanenbaum. Is it in such shape that you can offer it as an exhibit? A. Yes, sir. Now, you must remember that in New York city the values are probably twenty times as great as they were in San Francisco at the time of the fire.

Q. If you have anything you want to illustrate, I will take it in evidence, but I do not care to spend the time on it. A. Well, I only want to show that there were companies, such as the Aachen & Munich, Aix-la-Chappelle, that had three million dollars at risk, and losses in San Francisco, and their total assets in the United

States were only, at that time, $3,000,000. I want to show that companies like the Firemen's Fund, which was a local company ——

Q. That is, you want to illustrate by the experience of San Francisco, what you say about a company carrying an excess line or liability over its gross assets in any one district, is true? A. Yes, sir.

Q. You think they ought not to be allowed to do it? A. The Firemen's Fund Insurance Company at San Francisco had total assets of a little over $6,000,000. Their loss was $6,119,000. They had outstanding, throughout the United States, possibly $400,000,000 at that time. The stockholders met and secured extension of time in which to pay their losses, and it took two or three or four years before the losses were paid in full. In the meantime, a great many merchants became embarrassed. Were unable to meet their indebtedness.

Take the Aachen & Munich, their total assets in the United States at that time were about a million dollars. Their liability in California was $3,000,000. The Austrian Phoenix in the United States, at that time, had assets of possibly $400,000. They lost $2,000,000 in San Francisco, and they made the best compromise they could, and a great many merchants recovered nothing. Some of them received 25 cents on the dollar, and some 50 cents. The Hamburg-Bremen, the liability at San Francisco was $1,600,000, with total assets in the United States of only about $2,000,000. The North-German had a loss in San Francisco of $2,100,000, and their assets in the United States were less than $1,000,000. They have not paid all their losses yet.

Q. Of course, if this rule had been in force in the city of San Francisco, they could not have gotten the amount at risk there? A. They could not have secured that amount of liability.

Rhine & Moselle, of Strasburg, had $4,000,000 at risk, and about $400,000 or $500,000 assets. They paid from ten to twenty-five cents on the dollar to the assured in San Francisco, and a great many of them are in litigation now.

The Transatlantic at Hamburg had $4,000,000 at risk, with less than $1,000,000 assets. It practically bankrupted them, and they have only paid about twenty-five to thirty cents on the

dollar, after the attorneys, I think it was Mr. Sutro, an attorney at San Francisco, accumulated a number of claims and went to Germany and commenced suit. Now, the majority of merchants who had Transatlantic policies received from ten to fifteen cents on the dollar.

The German Insurance Company of Freeport, which was an Illinois company, and whose stock sold prior to the San Francisco fire as high as $1,200 or $1,400 a share, and was considered a strong, sterling institution, had at risk in the city of San Francisco, at least, lost in San Francisco, $4,790,000 on a $200,000 capital, and $2,000,000 surplus; $2,500,000 capital and surplus, and at risk they lost $4,790,000. Their policy was considered a sterling policy, but their liabilities as compared to their assets, were so enormous that they were wiped out of business and went into the hands of receivers.

Q. How does San Francisco compare, without taking up time any further—the example illustrates your point very well—how does San Francisco compare with New York as far as values are concerned? A. I think the values in New York are twenty times greater than they are in San Francisco.

Q. So, if there was one fire which swept over one of these sections of lower New York, which you have been outlining on the map this morning, is it possible that you would get in one section of New York as complete a disaster as happened at San Francisco, over the entire city? A. Yes, sir. Now, I have computed from the patrol reports submitted by the insurance companies of the amount of business they are conducting in the city of New York in 1909 based upon the premium receipts, from which there practically ought to be deducted the insurance reserve, and figuring such on the basis of the average rate of one per cent per hundred, and the average rate of 75 per cent per hundred, I figure the total liability of these companies at risk in the entire borough of Manhattan, under the patrol district ——

Q. What does it amount to? A. I have it. It gives that of each company.

Q. Without taking the time to read it, what is the total amount at risk? A. Well, I will just pick out—let's take the Liverpool and London and Globe, which is a foreign company. Basing the

liability at one dollar per hundred, they have $120,000,000 at risk.

Q. In the borough of Manhattan? A. At the basis of 75 cents, at the basis of 75 per cent, approximately ——

Q. Without mentioning any more —— A. (Interrupting) I do not want to mention any individual names, because the Liverpool and London and Globe is a strong institution, having $15,000,000 or $18,000,000 assets, and a great deal of that may be in the outlying district, but a large proportion is in the congested district.

By Judge Bruce:

Q. They are one of the strongest, are they? A. They are one of the strongest.

By Mr. Hurrell:

Q. What is the total amount there? A. I haven't added them up.

Q. I will ask that you submit that. I won't put it in the evidence at this time. Just leave it and we will have it figured.

By Judge Bruce:

Q. Mention one or two there of the strong companies, without giving the names? A. Will you allow me to withdraw the name of the other company?

Q. Yes.

Mr. Hurrell: It would be difficult to strike it out. It is so intermingled with the evidence.

By Judge Bruce:

Q. Say simply one of the strong companies? A. Let us take one of the weak companies, without mentioning any names. Let us take a company with assets of possibly $600,000, on the basis of 75 cents as a liability in the city of New York, and that naturally would be all the congested center, of about $4,338,000. They could not secure any part of the preferred business, so that is all in the congested center.

By Mr. HURRELL:

Q. Now, the wiping out of any one district down there would probably hit them for two or three million dollars? A. Would probably strike them for two or three million dollars. Now, I will give you an illustration of another weak company, whose assets are not over $500,000; who have at risk $489,000. Now, another I will mention. I will mention the name, because the company has retired, which is the Shawnee, who, according to the Comptroller's report, had a liability at risk of $4,719,000. Now, Mr. Hurrell will know the condition of that company, because their capital was impaired and assets wiped out at the time they re-insured.

By Judge BRUCE:

Q. Now, Mr. Tanenbaum, give us one or two of the very strongest companies. You mentioned one. Without mentioning the names? A. Yes. Most of the conservative companies—I should judge there is one of the conservative companies, whose total liability in New York in the entire borough of Manhattan, would not exceed one and one-half times its assets, while the majority of them insuring are underwriting at the rate of ten to one; some twenty to one.

By Mr. HURRELL:

Q. These companies that are careful to write only to an amount not exceeding one and one-half times their assets —— A. (Interrupting) And that covers the entire island of Manhattan.

Q. They have those risks scattered? A. They have those risks scattered.

Q. And you would have to have the town wiped off the face of the earth to bring that liability into existence? A. If you want me to, I can illustrate companies of the kind we want to carry bulk lines.

Q. That has been illustrated pretty thoroughly by other witnesses? A. Now, I will give you that any time you want.

Q. We won't take it until we get your idea on that thing. A.

Now, I want to take up—have you any subject you want to question me about?

Q. Yes. A. I want to illustrate, if you want me to, the fires of serious consequence in New York in the last twenty years, and the effect of them and the insurance involved.

Q. How long would it take you? A. It would take me fifteen minutes.

Q. All right, go ahead. A. This is a fire that occurred on the 17th of March, 1891. This fire occurred on the 17th of March on a building on the southeast corner — in the building situated on the southeast corner of Bleecker street and Green, in the sub-basement, through the carelessness of the engineer firing a shovelfull of red hot coals, which was apparently thrown into a lot of rubbish and rags, and the fire swept up from that sub-basement until it reached the lower parts or supports of the roof or structure which was 128 feet high. The building was built of granite, and was assumed to be a very well built structure. This is the structure before the fire (exhibiting a photograph). This was all granite, and these (indicating) were all low buildings and this was a fire-proof mansard roof. The fire had reached it, and the enormous amount of smoke prevented the fire department from entering the sub-basement, and after fighting the fire for about an hour, the fire chief, Bonner—the next thing they knew the fire was creeping out under these supports here, and in fifteen minutes the entire lower part of this portion was burned out, and this heavy mansard roof slid off and came across the street and struck these buildings (indicating), and this entire structure became useless and was destroyed, and destroyed this building, and this building, and destroyed part of this (indicating), and covered an area, as you will perceive, of possibly 1,500 feet. We were in process of installing sprinklers in this building.

By Judge Bruce:

Q. Where the fire started? A. But had not made any process at the time of the fires. Now, had this sub-basement been protected by automatic sprinklers and other fire resisting appliances, the firemen would not have found it necessary to go down there. The fire fighting facilities would have checked that fire.

Q. How much was that loss? A. That loss—I can get it from the Insurance Department—was about $2,500,000. Here is the abstract of it according to the Fire Insurance Patrol report.

Q. I just wanted the amount. Now take the next one? A. Now, to illustrate the liability of fire, I want to take Tarrant. The Tarrant fire occurred on Warren and Greenwich street, and was caused apparently by an explosion. That fire spread from that building to adjoining property, and some of the buildings were destroyed by explosion, and others by fire, and involved a loss of possibly two and one-half to three million dollars. I am only illustrating that to show that although you have fire fighting facilities, if you had your mains, these mains destroyed by explosion — you had one while I was testifying here yesterday — if that same explosion that occurred yesterday had occurred on the line of a trunk main, that main would have been destroyed, and an entire section would have been without protection from fire fighting facilities.

Now, the Tarrant fire destroyed property covering almost the entire block of Warren to Chambers streets, across from Washington street, and destroyed several plants, and there is litigation involved in it to-day as a result of a fire, which is an expensive fire.

Q. Without taking up the balance, Mr. Tanenbaum, for want of time, what are the amounts of the various other large fires that you have in mind there before you? Do they all run into the millions? A. There are fires here I can illustrate, possibly ten in New York city in the last twenty years, in which the losses run over $2,000,000 which covered possibly six or seven buildings, and none of these fires occurred under unfavorable conditions.

Q. They were all favorable? A. They were all favorable. We had light winds, and we did not have to suffer from lack of water.

Q. And your point is that if there had been unfavorable conditions —— A. (Interrupting) If we had had severe winds or a blizzard, or the streets blocked up by snow, they would have been very unfortunate conditions.

Q. Now, I want to ask you, if you as a broker and experienced man have any objection to the rates which the Exchange puts on office buildings here? A. I think that the office building rates

are adopted haphazard; I don't think they are intelligently prepared, so as to give the insurer any opportunity to question them at all; but the rates are quite low and I don't think there is much issue on that.

Q. Do you brokers ever get a chance to discuss the matter before the rating committee, at the time these things are to be decided? A. The difficulty about the New York Fire Insurance Exchange is that it is so strong that the brokers have no voice or hearing. Here a broker is really the agent of the insured, his agent in practically the same way that you might be my attorney at law. If we appeared before the Insurance Exchange and asked for information, we would have to secure a letter from our principal; the schedule would be sent to the principal and returned to us, and if we didn't understand it, or if it was a blanket schedule, or a heavy hazard schedule, it would be up to the Exchange to explain it, and it would be referred to them, and their answer would be that that is the rate made by the committee, in most cases on your principal's property in congested centres, and an intelligent explanation is given; but on office building restricted schedules or on competitive rates we are unable to receive any definite explanation how those rates are got.

Q. What is your opinion as to whether the schedule on every man's property should be made public, if the Exchange permitted it? A. I think every man ought to be advised as to the causes of his high rate, or the reason of his low rate.

Q. I meant this: Suppose I have a building out here on Broadway and you as a broker think my broker is not taking care of me the way he should, by educating me, and you want to get a chance to show me how much I am actually paying? A. I think that the public ought to have that privilege.

Q. You ought to be able to go and get my rate, and come and see me about it? A. Yes, I think I ought to have that privilege. The real estate broker has that same privilege. The real estate broker to-day, if he knows that a building on Broadway is occupied; he will find out the owner, what rent the occupants are paying, and he will go to the owner and say I can rent it for better than you are getting. There is no law preventing him doing that.

Q. The Exchange say the brokers are so energetic if they made that public, the business man would not be able to do any business. A. Well, if the brokers are troublesome the Exchange are accountable for it in their greed to secure the best class of business; they encourage the brokers. There are plenty of agents desiring to secure a certain kind of business, and they will adopt almost any reasonable means of procuring it. These agents have confidential relations with brokers, and will say, I am unable to secure this insurance Tanenbaum has got, you go for that risk and try to get it. That is fair competition. I don't see anything unjust in that. I think every property owner ought to have the privilege to know. or anyone else, what his specific rate is. I don't see any objection to that; and if a broker is unable to hold his own he had better retire from business. I think the difficulty to-day with the Exchange and the brokers is, I don't think it is within the province of the Exchange to control the broker, because the broker is the agent of his principal, and it is his duty to buy the best contract he can, and at the lowest price. But the Exchange reasoning in answer to that is that the brokers are the cause of our troubles; in our desire to secure good business, and the excess commission, that the brokers might cause the disruption of the Exchange. In other words, they mistrust themselves. They are jealous of one another; and in order to keep their organization impact they want to control the brokers with a whip hand.

Q. How do you find the Exchange treats the policy holder in the matter of insisting that certain conditions and riders go on the policies, whether those conditions exist in the premises or not? A. I think a great many of their warrantees are unjust.

Q. For instance. A. Well, the Exchange will insist under its ruling, where we apply for insurance in the premises of any specific risk, for a man that may have merchandise stored, and that man is only the owner of the merchandise, we will apply for a line of insurance, and the insurance companies say, under the Exchange rule, we are obliged to place a certain warrantee on the policy. Now, the man who applies for that insurance is neither a tenant or the property owner, he simply happens to have merchandise stored there. He could not buy that insurance in

the market unless he attached warrantees to the policies. I have a warrantee here, without mentioning names, covering that condition; you might read it for yourself.

Q. What is the warrantee called? A. Sole occupancy warranty, automatic sprinkler, automatic alarm, etc.

Q. This warranty reads as follows: "Sole occupancy warranted by the assured that the building herein described is occupied exclusively by one tenant;" that is what you mean; that is the warranty of sole occupancy? A. Yes, that is one.

Q. I notice that the words "one tenant" are written in, in that blank space, and the rest of what I read there is printed; now, isn't that blank space left blank for the purpose of putting in there the number of tenants of that building? A. No, that is a general rubber stamp, used by insurance companies as a matter of convenience, because there might be two or three or four tenants, as the case may be.

Q. It happens that this man, if he wants to get his insurance, has to warrant something that may not be true? A. No; he has to warranty something beyond his control.

Q. Isn't that a perfectly fair proposition from the company's side? A. It would be fair if they promulgated two classes of rates on the risk. If we were to ask them for the promulgation of the risk without this warranty it would be difficult for us to procure it. They say this is the only warranty we will attach; we will not change that.

Q. Your point about this is that that warranty absolutely invalidates a large number of policies, is that it? A. This particular warranty applies to merchandise that a southern house has stored in the Clafflin building; the Clafflin risk is absolutely a sole tenant risk. This house was a southern house that sent these goods there to have them repacked and to be shipped south. They are compelled to put the warranty on here. It is impossible for them to tell, except from hearsay, that the premises are occupied by one tenant.

Q. Isn't that up to their broker, largely? A. What; to eliminate that warranty?

Q. No, but to see that they get their goods placed in a building that that warranty will not endanger them? A. No, the

broker could not control it. They were buyers of merchandise from H. B. Clafflin; they bought some small packages from some one else; they ship their goods in bulk, from one store south, or wherever their store may be; it might be ten dollars worth of merchandise or fifty dollars worth of merchandise; and they do not want it sent by express. Their broker is a different broker than the one that effects traffic insurance.

Q. Your complaint is here, that the Exchange ought to adopt a rule that is elastic enough to allow the policy to be issued without that "Sole occupancy" clause on it? A. And fix the rate accordingly.

Q. Where the conditions were not such that a man could not warranty it? A. That is one complaint. I think as a whole—not they have on here warranties, automatic alarm, automatic sprinkler, and a warranty of watchman and clock. Now it would be beyond the house in Augusta, Georgia, or any other place to know about those things. They are getting the benefit of this low rate, but they cannot warranty them. If this company which issued this policy wanted to take any advantage of the condition, of the failure of the sprinkler system, through getting out of order, not through the fault of this policy holder, they could defend an action successfully.

Q. But as a practical matter, are those warrantees ever put on a policy, at the time the policy is written out, where the conditions warrant such rule, if they were not present, and where if the man was here, to look over it, he could not warranty it? A. I didn't get that.

Q. You say that this particular case cited, the man got that low rate because the goods were in the Clafflin building; now, I take it, this sole occupancy warranty, and this automatic sprinkler clause and this automatic fire alarm clause is here because they are there; and they wouldn't hurt him. A. They would hurt him; suppose that the alarm system was out of order or the sprinkler system was out of order.

By Judge Bruce:

Q. What do you suggest ought to be done? A. I think the insurance companies ought to promulgate two classes of rate, and

two forms of rate. Their methods now are such that you could not buy this insurance, unless you accepted this form.

Q. Unless from the knowledge you got, you could make these warrantees? A. Yes; as an individual insurer they could receive no redress from the Exchange; they would simply say those are our rules. I have a more concrete example that exist to-day. I have a more concrete condition for illustration. Now, I have a case — I want to leave the location out — I have a case that rose the other day. We applied for insurance on a dwelling house, being purchased by one of our clients, the occupant and owner of that dwelling house; she contemplated renting part of that dwelling house for furnished rooms, to two or three couples. It is a private dwelling house, in a very desirable neighborhood. She depends on that for her income. And there is no policy that you could procure from any insurance company in the Exchange excepting it had this language: "Warranted by the assured that the within described building is occupied exclusively for dwelling purposes by not more than two families."

Now, I interpreted "two families" might mean two couples, or four couples, as the case might be. There is no boarding house there; she does not furnish meals. Now, if there were three ladies and gentlemen, married, or one of them was a parent, and has two daughters and sons who were married, that would mean three families, in addition to the independent family of her own. Now, that warranty would mean litigation if an insurance company sought to defend an action. There is no way or means by which this warranty could be limited, without the insurance company violating the rule by issuing the policy. We wrote a letter to the Exchange; shall I read it?

By Mr. Hurrell:

Q. Let me see it? A. Leave the names out (witness hands paper to counsel).

Q. Read the essential parts of the letter, Mr. Tanenbaum. A. "Willis O. Robb, Esq. Manager, New York Fire Insurance Exchange; Dear Sir: We respectfully extract herewith a communication addressed by us to the —— Insurance Company bearing on the proposed line of insurance on dwelling house —— West

75th street. 'In Re Policy No. 93674 —— Insurance Company. Gentlemen: Our office applied to your institution for a line of insurance on the dwelling house —— 75th street, and upon receipt of the policy we requested one of our young men to have you eliminate therefrom the warranty attached by you thereto reading as follows:

"Warranted by the assured that the within described building is occupied exclusively for dwelling purposes by not more than two families."

You took exception to this and stated that the elimination therefrom of this clause was a violation of the rules of the New York Fire Insurance Exchange, and returned the policy to us with the clause eliminated, but the word "private" interlined between "as a," and the word "dwelling," and the same now reads: "As a private dwelling."

We are desirous of learning from you, if, in event of our client renting any of her rooms to others than members of her family, or as has frequently been the case, when a dwelling house owner or lessee rents furnished rooms, or such dwelling is used in part as a private boarding house, what effect, if any, will such conditions have on the validity of the contract, or the warranty as between your company and the assured.

We are inclined to believe that it would be good policy and good judgment both on the part of the individual underwriters or by the Exchange to formulate warranties more consistent with the actual conditions existing in many of our local dwellings used for renting of rooms or as private boarding houses. The two-family warranty is indefinite and permits ground for litigation on the part of a weak or irresponsible insurer. We therefore request on behalf of the interests we represent that a remodelling of the warranty upon proper lines be adopted; if any warranty is necessary at all it should be applied with judgment and discretion by both the companies and the Exchange. To follow word for word the stereotype form promulgated by the Exchange materially affects the interest of an individual insured or would be insure, and we submit for your consideration and your explanation the effect of such warranty on a dwelling line.

An explanation on your part is in order, etc.'

The tenor of our lines is self explanatory, and we would appreciate an expression from you on the subject. We think that the language 'of not over two families' is hardly broad enough to cover the contention of this case or any similar proposition, and we urge a modification of the rules of the Exchange by which companies underwriting this class of business will be privileged to underwrite such in conformity with each individual application for insurance on property commonly termed dwelling houses.

Thanking you for your expression, we remain ——."

Q. That was written to the Exchange? A. That was written to the Exchange — extracted a letter from the insurance company. The policy of the insurance company had been returned. The policy contained the words "Private dwelling;" we interpreted that to mean probably, occupied only by the owner of the property, or entirely by the family itself.

Q. Did it have this "two-family" warranty on it? A. It had the "two-family" warranty on; that was removed, and the interline; instead of, however, removing the warranty, to read, "A private dwelling." We interpreted, "Private dwelling house," as it might be considered by the courts, a building occupied entirely by a private family.

Q. But it still had that warranty on? A. It still had that warranty on.

Q. "Not occupied by more than two families?" A. Yes.

Q. And you couldn't get a policy without that? A. Yes, we could get a policy without the warranty of two families, but they would interline the word "private."

Chairman MERRITT: That made the condition to be, entirely one family?

The WITNESS: Yes, that would be still worse. A private dwelling, if you had some man stopping with you, they were families technically, that is not a private dwelling; but if I rented rooms to two or three families, although they were not doing cooking.

Q. In other words, you wanted a policy that would not lend itself to litigation? A. Yes. Now the answer the New York Fire Insurance Exchange addressed to our office is as follows: "Your favor of the 15th inst. is at hand, copying with comments your letter of December 14th to the —— Insurance Company,

concerning Exchange form of dwelling warranty (occupied exclusively for dwelling purposes by not more than two families). Your suggestion that this is rather a rigid form of warranty for the risk you are dealing with, is: that at —— West 75th street, and perhaps for others of somewhat different description, is entirely proper. It would, however, be impractical to modify the rules of the Exchange to the extent you outline, so that companies underwriting this class of business will be privileged to underwrite such in conformity with each individual application for insurance on property commonly termed dwelling houses. Such action would lead to all manner of sharp practice and misrepresentation in the placing of doubtful risks of this general class. As a matter of fact the office of rule of construction long in force here and tolerably well known to Exchange members and brokers is that the ruling on page 91 of the Exchange handbook, viz.: 'The presence of boarders in a dwelling house does not remove such risk from the dwelling house class,' shall be so construed that a boarding house with accommodations for not more than forty permanent guests is to be treated as a dwelling and not subject to specific rate. So as to furnished room houses in which beds are placed in separate rooms with partitions extending to the ceilings and the rooms rented for permanent or transient guests, without restaurant or dining room in connection with furnished room, and the majority of rooms are rented to permanent guests the risk is treated as a dwelling, unless it can accommodate more than forty guests as in the case of the boarding house. The practice indicated by these rulings and office rules is sufficiently well known, so that in the actual adjustment of losses no harsher interpretation of the dwelling house warranty than they embody is at all likely to be made, because, certainly, no such interpretation could be enforced. On the whole very little difficulty has been caused at any time because the wording of the warranty itself was not more flexible."

My contention, as shown here is a contract between an insurance company and the insured, which contains definitely a condition of that contract. The Exchange is an unauthorized body in this sense; in the event of a law suit, the ruling of the Exchange would have no benefit to protect the litigant; the courts would consist-

ently rule this is a contract between the company and the insured.

Q. But, if the issue was as to whether the house, by reason of the presence of boarders, had been taken out of the private dwelling class, the very fact that the companies represented by this Exchange, had put out a circular, that the presence of boarders did not remove it from the dwelling house class, the courts would naturally take that as evidence that the companies meant that in interpreting their own contract? A. No, I don't think so. We have been in the courts on these issues, and they worked out the other way.

Chairman MERRITT: The court would not take any cognizance of a rule the Exchange made?

The WITNESS: No. It says, "Here is a written contract between two parties."

Q. The agent of the companies interpreting its own contract on that very question, which would then be before the court, it would seem to me they would? A. They deny the agency in the event of litigation.

Q. They do? A. Yes, sir. We have been in court on that, and they denied the agency.

Q. The agreement of the Exchange is not binding upon the companies themselves? A. Yes, that would not bind the company as far as the specific contract was concerned.

Judge BRUCE: The contract binds?

The WITNESS: Yes, sir. Now, concede an honest company will pay this debt; the hazard is not large, and it is not a bad hazard. But there is no way that we could buy a policy of insurance from an Exchange company, with the privilege of renting furnished rooms. There is no ruling or any rate they have promulgated, except, as treated, as a hotel or family boarding house.

Q. So it comes down to it again, that they are not elastic enough, or they won't be elastic enough to give you exactly what you want? A. Yes, but my particular opposition is this: supposing the adjuster of an insurance company that was in a weak financial condition because of losses, and they had this loss to adjust, they would use this argument to enforce the claimant to reduce his claim. They did that in San Francisco. They held

out, and compelled—companies liable, and able to pay one hundred cents on the dollar — compelled a settlement on the basis of fifty or seventy-five cents on the dollar. Now, I have a copy of the Patrol receipts of New York, showing the amount of premiums received here.

Q. You mean New York city? A. Yes.

Judge BRUCE: In what year?

The WITNESS: Of 1909, I think.

Judge BRUCE: Just give us the total; that is for the fiscal year, is it?

The WITNESS: Yes; I will take the fiscal year, by stating the total premiums received from July 1st, 1909, to January 1st, 1910.

Q. That is six months? A. Yes, $8,118,400.89, from all the companies reporting to the New York Fire Patrol. That is, the borough of Manhattan. The receipts covering from January 1st to July 1st, all companies reporting to the Patrol, was $11,603,-431.98; practically twenty million dollars.

Judge BRUCE: Those are only the companies that reported to the Fire Patrol?

The WITNESS: That is all.

Q. In the borough of Manhattan? A. Borough of Manhattan only.

Judge BRUCE: Now, have you the losses there?

The WITNESS: The insurance companies have refused to publish losses for some time.

Q. You could not draw any trustworthy conclusion, if you had the losses here, could you? A. Well, you could as far as the companies that were members of the Patrol.

Q. You could draw the conclusion that in this particular field it wasn't very disastrous; what I meant is, it is not safe to draw a conclusion from but one section, when these same companies have their liabilities scattered all over the country? A. No, that would be an unfair comparison.

Judge BRUCE: It would be interesting data, would it not?

The WITNESS: It would.

Judge BRUCE: It is extraordinary, is it not that they have not been collected?

The WITNESS: They have been collected for about seven years, and embraced in the Patrol report, and then they discontinued them.

Judge BRUCE: What year did they discontinue?

The WITNESS: I think 1902 or 1903; I think it was discontinued after the companies organized the Exchange.

Q. Do you know whether before the San Francisco fire the companies in San Francisco enjoyed a period of prosperity? A. I do not consider that an extraordinary income compared with the possibility of the total loss. As I illustrate it, that entire premium income for five years might be wiped out over night; but under present conditions the record has been very favorable in New York.

Q. Have you come across anything in your practice which seemed to indicate that companies were violating the standard form policy in the binders they were attaching? A. I have.

Q. In what way? A. The standard form of policy—let me have that German-American policy — (Paper handed to witness) — is the result of legislation in 1886, and agreed to between the merchants and insurance companies; it provides, lines 51 to 55, "This policy shall be cancelled at any time at the request of the insurer; or by the company by giving five days' notice of such cancellation. If this policy shall be cancelled as hereinbefore provided, or become void, or cease, the premium that has been actually paid, the unearned portion shall be returned on the surrender of this policy, or last renewal; the company to retain the short rate and so forth."

Under the terms of this policy no contract of insurance could be cancelled by the company without first giving five days' notice of such cancellation. There is a decision known as Tisdale against The New Hampshire, on record, designating what is a complete cancellation of a policy.

Q. What is the substance of this? A. Now, previous to the formation of the New York Fire Insurance Exchange broker or insured applying for insurance could procure from the insurance company an agreement, subject to the standard form of policy, whereby the insurance company agreed to insure the liability on the risk, under the binder which was then in vogue and in force.

And this is the binder. (Hands paper to counsel.) Since the Exchange has been in force and adopted rules——

Q. This is the one in force before the Exchange? A. Yes, the first one.

Mr. HURRELL: I offer it in evidence.

(Received and marked Exhibit P-1.)

The WITNESS: But so many brokers, to insure one another,——

Q. And this is the one the Exchange promulgated? A. Yes, that is the one.

Mr. HURRELL: I offer it in evidence.

(Received and marked Exhibit Q-1.)

Q. Now, what is the difference between these two, the effect of these two binding slips? A. The effect is this, if a person applies to an insurance company during the ordinary course of business for a line of insurance, say John Smith or Tom Brown, and the company has before it the information as to the line, but before assuming the liability and on the information which it has in hand, but before an investigation is instituted to determine whether it will justify the risk or not, they would bind the risk.

Q. In what manner? A. They would bind the risk by signing a binder, and assuming whatever line they had agreed upon, without a broker going for his principal.

Q. That is just a convenient form of detecting insurance, and giving some written evidence of it, without going through all the operations necessary to get out a policy? A. No; the general copy of the form is left at that time; the binder is sent out, and it is transmitted within twenty-four hours after. The Exchange adopted this form of binder, and to-day if a broker, or principal, was seeking insurance at twelve o'clock, at noon, and the companies investigating the risk, and they assume it, and then at five o'clock they could send out a notice, and under that terminate their liability, not under the condition of the standard form, but at 12 o'clock the next day.

Q. Instead of at the end of five days? A. Yes, the condition in the standard form of policy, on which the policy could be terminated.

Q. Has this rule, the operation of which has the effect of avoiding that part of the standard form, ever been approved by any State officials? A. It has not. I think it, as a matter of fact ought to be approved by the Insurance Department, the same as the form of the electric light warranty.

Q. Then, it stands before this Committee as practically a device of the Fire Insurance Exchange for avoiding the standard fire policy? A. That is my judgment. They have received an opinion;—anyone can receive an opinion from an attorney;—there is an opinion there from Ex-Judge Rumsey.

Q. This opinion you hand me is one, you say Ex-Judge Rumsey wrote, justifying this later binder? A. For the Continental Insurance Company; it was transferred to the Exchange.

Q. What is the substance of this case you handed me here? A. The policy could not, under the standard form, the policy could not be cancelled inside of five days.

Q. This was affirming what the standard policy seemed to say? A. Yes.

Judge Bruce: Did that precede Judge Rumsey's decision?

The Witness: It preceded it. Now, I want to show the injustice of it, this binder in a great many cases. Assuming at the time this risk was placed by a broker, on behalf of his principal, the risk was satisfactory to the insurance company, and at half-past four or five that afternoon a large fire occurring in another part of our city, Chambers street, or Duane street, as the case may be, and this specific risk should be located at 14th street, the insurance company would have to write in this binder, to terminate its policy at 12 o'clock on the following day, business day; so that before that fire reached the specific location in which this risk was located the liability of this company would terminate. In other words, a fire may burn two or three days before it reaches the specific location. It took four or five days to destroy San Francisco, and three or four days before Baltimore was destroyed; so the conservative underwriter, if he wanted to enforce his contract could notify the insurer at five o'clock to-night, long before the fire had reached him, that he would terminate the policy at 12 o'clock to-morrow; so that the location in which this risk was intended to be protected, being in the zone of possible

destruction by fire, the liability of this company would terminate. Of course that is a question, whether the courts will hold that is a valid contract or not. If this contract was enforced to the letter, he might have the right to terminate that liability.

Q. Is it not a fact, if it were not for the convenience of that binder,—very often property is bound by the use of that binder, which if the companies took the time to investigate, it would be going without insurance in the meantime. A. That might be a fact, but it is poor business principles and methods. Because if the North River Insurance Company or any particular insurance company won't underwrite this risk, some other company will. It is better to know in advance if your risk isn't protected, than to have it inadequately protected. The insurance companies are going after desirable business. They won't underwrite or bind any specific risk, for carrying it over night, their liability is just as great, over night, as it is for 365 days. It could burn over night, if it is protected on the binder. Now, if the company underwrites this risk, it will take any technical advantage it can to be relieved of it. In my opinion as a layman, it is a practical violation of the intent of that standard form of policy. I don't think the Insurance Exchange has the right to interfere with that policy, that standard form of policy.

Q. So, your recommendation, if any, to this Committee, would be, if they found a way to reverse Judge Rumsey, where he reversed the standard fire policy? A. I think so. That standard policy is a legislative act. Here are the two binders. I will show you the effect of it.

Judge BRUCE: Have you known specific cases where advantages have been taken of this?

The WITNESS: Yes.

Judge BRUCE: On the grounds you suppose?

The WITNESS: On the very grounds, an action in which we became interested parties in an action at law, in the Supreme Court of New York; the Franklin Display Company against the Firemen's Insurance Company of Baltimore tried in the Supreme Court about four or five years ago. Here is the defense. I think as an attorney it might interest you. (Witness hands paper to counsel.) The seventeenth defense; this policy, which it was

understood was to run to the said Franklin Display Fixtures Company if the said survey would prove satisfactory as aforesaid, shall issue a policy of insurance in accordance with the standard form of insurance policy of the State of New York, with such provisions in additions thereto as may thereafter be agreed upon between the said defendant and the said Franklin Display Fixtures Company, subject to the general rate, rules, clauses, proofs, forms and so forth, of the New York Fire Insurance Exchange." This is that defense of the company: "That at the time of the execution of said instrument or binder, by paragraph 12 of defendant's answer, mentions that the defendant, the said Firemen's Insurance Company of Baltimore, with Condon Brown, an agent of said defendant, the Firemen's Insurance Company of Baltimore, in the city of New York, were members of the New York Fire Insurance Exchange; and the said Franklin Fixtures Company had knowledge of such fact or that it was easily attainable through their agent; and that the said Franklin Display Fixtures Company, through its agents, well knew the general rule and requirements and forms of the New York Fire Insurance Exchange, which govern all the insurance companies and insurance brokers, in their issuing of policies; and that their policy covers patterns, moulds and so forth, designs, etc., and that the rate on such premium shall be increased not 25 per cent, and not more than—&c.; that the said Franklin Display Company knew at the time of said application that the policy of insurance to be issued, was to be issued in accordance with the rules of the Exchange, and were issued subject to such rules and requirements as the companies and brokers dealing with the Exchange were familiar with; and they took the policy subject to all such rules."

Now, at the time this risk was bound with the Firemen's Insurance Company of Baltimore, this binder was in vogue. It was about the time of the organization of the New York Fire Insurance Exchange. This fire occurred within the time the company bound the risk. Within 48 hours, between the time the company bound the risk, and 36 hours thereafter. After four o'clock in the afternoon of the day of the destruction of this property we received a letter from the Firemen's Insurance Company stating that they had inspected the premises that day, and desired to be

immediately relieved of this liability. We looked the market over—it was sometime in December or January—and being unable to replace the line we wrote them a letter, and sent it by mail, saying we declined to release them from liability unless we got the five days' notice. The company denies liability on that ground. In the meantime, this binder had come in vogue—on the ground they were members of the New York Fire Insurance Exchange, and under the Exchange binder in vogue, they had a right to terminate the contract by notice of 24 hours. And this was the basis of the litigation.

Q. Don't go into all that; what was the result? A. Judgment was rendered for the plaintiff. This company in the interval had been destroyed by the Baltimore fire; but we were fortunate enough to attach some of its property in the city of New York, and we recovered the judgment.

Q. Now, I don't want to spend too much time—

Senator WAGNER: The court passed on that particular point?

The WITNESS: The court passed on this point, that the New York Fire Insurance Exchange rule passed afterwards was not binding on the assured; if they had had that new binder we would have been shut out.

Q. Now, I want to ask you if you write any surplus line business, under section 137? A. Very little. If we are licensed brokers?

Q. Yes. A. We are not.

Q. There has been a controversy with insurers, at various times, as to whether a tax should be collected from these licensed brokers who go and get insurance which they effect in New York State, on property located outside of the State, in insurance companies; what do you think about that? A. I think it is unjust.

Q. You mean to collect such a tax? A. Yes.

Q. Are you aware that there is a considerable line of insurance written in New York city upon property located in various States, in companies which have no certificate of admission? A. Yes, I am. There is quite a number of railroad companies, and grain elevators, and other large insurers, that carry insurance outside the city of New York.

Q. You know that action was agitated at times, upon the part

of some people, that a tax be put on that business? A. It has been agitated, I believe, in the last Legislature. I don't know the result of it; I think it is unjust taxation; that only property within the borders of the State of New York ought to be taxed.

Q. What is the answer to the proposition that the State of New York owes something to other States, and this State should not allow people to come here and write insurance on property located in other States, as in the Massachusetts companies? A. The answer to that is this: It would be far better for the people of the State of New York to know that the insurance affected in the open market on property in other States, than to induce these same brokers to open an office in Jersey City, and under cover, that being their home office adopted a means of underwriting in a wild-cat manner. I think they could overcome that by opening an office across the river in Jersey City; assuming the liability of placing that line by correspondence through the mail, and if they did correspond through the mail, they would be beyond the reach of the department.

Now, the Massachusetts law is very stringent. Under the law of Massachusetts if I was to solicit business in the State of Massachusetts, certain lines of insurance, for companies not authorized to do business in Massachusetts, I would be subject to a penalty, lay myself liable to imprisonment and to a heavy fine. We have no such law here.

Q. Now, have you anything else, Mr. Tanenbaum, that you specially desire to bring of your own motion before the Committee. I may say, I want to swear another witness before recess, if possible? A. Under the rules of the New York Fire Insurance Exchange to-day, the insurer, although he is carrying full insurance, attached to his policy, the average or co-insurance clause, and paying the highest premium for such insurance, and covering patterns, moulds, dies and other specific items under the general or blanket policy, it would be impossible for him to cover these items in there unless he specifies them.

Q. I think Mr. Eckert went into that rather fully yesterday morning, but I didn't understand him that he had any specific objection to dividing up the amounts on the different classes of business, have you? A. I have objection in this sense. I think

if the merchant is willing to pay the premium, and carry an insurance equal to the full value of his property, that he ought to have the privilege of carrying practically insurance covering the entire property.

Q. You think that that, among other things, might properly come up from time to time before a court or board of review, if one were established? A. I do. I say, I think a great many practices adopted by the Exchange, if their attention was intelligently called to it, they would remedy it. I think others, they would not. I think it would be necessary for a court of review to get these gentlemen to remedy them in the interest of the public. There are a great many clear minded men in the Exchange, but they are in the minority. Now, the mutual fire insurance companies will issue a broad policy. I have a policy here.

Q. Never mind; we will take the statement of fact as such.

Q. You mean the mill mutuals? A. The mill mutuals. One thing I want to bring to the attention of this Committee is: In the mill mutuals, especially the Boston manufacturers, have become very aggressive in this State. They solicit business which under reverse conditions would not be permitted in the State of Massachusetts. They pay no taxes, nor do the policy holders pay taxes. I think it would have better if they did. I think their insurance is accepted in mutual companies, I think, that fact ought to be given in a statement of the people holding policies; they ought to be compelled to pay taxes on their net premium, so as to equalize the taxes throughout the State, in the same way that insurance companies pay general taxes.

By Judge BRUCE:

Q. Do you think they ought to be admitted to do business in this State? A. They should be admitted on a parity with the other companies; I think their losses ought to be restricted. Now, the Boston companies insure in Massachusetts over their gross assets five to one, and leave the insurers liable here five to six times their assets.

Q. You mentioned to me this morning before you resumed the stand that you wanted to make a correction in your statement yesterday in some particular? A. I wanted to make a correction

in regard to the license of the Exchange, as far as our conditions are concerned in this correspondence between the Exchange brokerage committee and ourselves: I believe this is simply a rule of the brokerage committee itself.

Q. That is, you mean the difficulty — you speak of the difficulty now that you are having to get a license? A. Yes. I do not think in the main that the gentlemen of the Exchange, or the gentlemen of the executive or arbitration committees, would approve the action of the brokerage committee. I think that that would be disapproved, and I think they would be compelled to issue a certificate if it was brought intelligently before them.

Q. In other words, on your appeal you expect to get your certificate? A. Right on its merits. Consequently, I do not think there is any rule of the Exchange, or requirement which compels a broker to furnish the names of his stockholders.

I want to further suggest to the Committee that the brokers ought to be licensed and appointed by the State. I thought that ought to be in the jurisdiction of the State. The brokers are paying to the Exchange ten dollars for the privilege of doing business. They are the agents of the insured. They are not the agents of the companies. They are entrusted to look after the interests of specific insurers; to go into the market and buy the best and most favorable contracts, and it is their duty, in behalf of the principle they represent, to buy the best contract, on the most favorable terms. Now, the Exchange receives from 8,000 brokers, $10,000 a year each. That is $80,000. I will concede there are not legitimately 8,000 brokers, but that $80,000 could be used by the State, towards the expense ——

Q. (Interrupting.) You agreed with what Mr. Markham admitted. He said he would like to enforce in this State, and that is an examination to test the qualifications of men who wished to engage in the insurance business, both agents and brokers? A. Undoubtedly.

Q. You would be in favor of that? A. Entirely. I think to-day insurance is a profession, the same as law or medicine. I do not think that any man who is unfortunate in business, and meets with reverses in business, who has been a railroad solicitor, or any such men, should enter the insurance business, having

to do the business of placing contracts of insurance with intelligence, but when the majority of men meet with reverses, or are unfortunate in other lines, their friends immediately place them in the insurance field and help them along. They use that as a means of charity. Then, I think, the State ought to appoint the brokers. Under the conditions of the standard form of policy, the broker is the agent of the insured. If he collects the premium from his principal and does not pay it to the insurance company, the insurance company can compel him to pay the premium over again. In fact, he is not aware of it until he has received notice that he has to pay the premium over, even.

By Assemblyman TOOMBS:

Q. Does that happen very often? A. That has occurred very frequently, and he has no redress, and the company has a right to cancel the policy for non-payment of premium, and I think before a broker is licensed he ought to be compelled to give the State a bond for honesty and integrity, as well as ability to make favorable contracts of insurance.

By Mr. HURRELL:

Q. Have you any other specific suggestion? A. I think he ought to be placed in the same category as your life insurance broker.

By Chairman MERRITT:

Q. Under the same general rule? A. On the same principle, except, I think, a fire insurance broker in a large city ought to pay a fair compensation. I do not think there should be any responsibility on the part of insurance brokers in small towns to pay $50 or $100. But I think insurance brokers in large cities could assume that responsibility. Fifty or one hundred dollars a year for a license protecting them, but I do not think that would apply in smaller cities, but in a city like New York where fire insurance is really a profession, as a protection to the community, I think the State could consistently recover a fee from $50 to $100 from brokers and that same amount could be applied towards formulating a com-

mittee or body of men something similar to the Public Service Commission, to supervise the weaknesses of the Exchange, the rates of the Exchange, and the filing of arbitrary classes of forms. I do not think it is within the province ——

Q. You seem to approve the Exchange, except as to its being rather inelastic? A. I do not think the Exchange rates are unfair, as a whole. I think they are arbitrary, and I think where you have a large body to control, and require unanimous consent to modify any rules, it is very difficult to control them.

By Mr. Hurrell:

Q. But what would you do with your board, Mr. Tanenbaum, in case some of the companies wanted to withdraw therefrom, and would say, "We won't belong to any rate-making body?" A. I think that will take care of itself. I think the majority of companies would follow the companies having the profitable business, and some would withdraw. I think many of these companies in the Exchange are under duress.

By Judge Bruce:

Q. Your supervising body would supervise the rate, whether made by one company, or made by the Exchange? A. If they did that, and fixed a minimum rate, I think it would make no difference whether they were members of the Exchange or not. You would name a rate of safety.

By Mr. Hurrell:

Q. I was wondering whether you would advocate a board that would deal with the individual companies when they asked the privilege from the State of New York to come here and do business? A. No, I think as a whole, that is regulated by the Insurance Department. You approve whether a company has the privilege to do business or not.

Q. No. I was wondering whether you do distinguish in your mind between a combination of companies and the desirability of regulating a combination, and the desirability of saying to every insurance company that wants to do business here, you can do

business here, but we will tell you when your rates get too high, that are not in any combination? A. I do not think that that is within the province of anybody. I think the insurance company has the right to know the rate at which it will sell its contract.

Q. That is what I say, and I was wondering, if this commission should suggest what would happen if some companies would say, rather than stay in a combination which means regulation by commission, we will withdraw and do our business individually? A. Well, then, you would have to contend with this condition; that this plant is now in restraint of trade.

Q. Then you would have a state of substantially anti-compact? A. You would to an extent, but each company would do business according to its own judgment.

Q. That is what they do in anti-compact States? A. The result is favorable in some States and unfavorable in others. If a great many companies were able to do it on their own judgment, a great many losses would be written at a lesser rate, and some at a higher rate. I think it is very difficult for a committee or a commission to regulate the making of rates, but I think it ought to be the privilege of supervising them.

By Senator COLNE:

Q. Revise them? A. Sort of revise; or review; on the same principle as the Public Service Commission. I think I want to suggest this ——

By Mr. HURRELL:

Q. We have two other witnesses I want to swear before one o'clock. A. If it is within the province of this Committee, I think the heights of buildings, or area, ought to be limited. I think that in buildings in which life is at risk, and in any factory building where there are numerous employes who are subject to the dangers of fire, unless it was well built, fire-proof construction, I think those buildings, by law ought to compulsory be — I think under law of compulsion they ought to be protected by any and every modern fire-resisting appliance. Protect the property, and I think that also would retard the progress of a conflagration.

By Chairman MERRITT:

Q. Are the fire-resisting appliances and devices protected largely by patents? A. Well, most of those patents have expired.

Q. There is not any particular monopoly in those things now, is there? A. There was, but it has passed out of existence. There is a great deal of competition to-day for the installation of sprinklers and the cost is reasonable.

Q. The degree to which the State may go into the business of regulation is always a matter of speculation to begin with. Ten years ago there was not any thought of policy, of regulation of Public Service corporations. I wonder whether in this business, if you were to provide for the limitation of risks, in these centers of conflagation, risks that you have been speaking of with the map, and you attempted to regulate it at, you would get over to a point where you would treat fire insurance as a real public service function; to compel the company providing it had not exceeded the amount of risk which the law provided, it might continue to accept, at some rate, insurance. Then you could have a situation very similar to the Public Service situation. All the talk of regulation brings in the question of public service corporations in a collateral way, and yet there is a marked difference between this particular business, almost as much a necessity as traction or light, and the real public service corporations, because you all maintain the right of the companies to refuse any risk they seem fit. Now, the public service corporation cannot refuse service; they have got to give it. Therefore, they are regulated, and they have certain privileges, and I have asked the question several times of men on the stand, and got no satisfactory reply; I have no satisfactory reply myself in my mind, as to what privileges or benefits the law might give this particular kind of business, in consideration of regulation. You have got to base the regulation on some sort of reciprocal benefit. That is the fundamental doctrine in the regulation of a public service corporation. They are receiving certain rights, privileges, franchises by reason of which they exist. Now, what can we give; what can the State give, the fire insurance people, if anything, in the way of a privilege or franchise or right or benefit, in consideration of which they must admit the right of the State to regulate? I anticipate that any effort to regulate, in other

words, rates would be litigated on the ground that there was no such reciprocal obligation, and, therefore, there was no right to regulate. I do not see where you are going to hang any regulation. On what hook you, are going to hang it, unless you can establish some benefit or privilege of value to the companies as one of the fundamental considerations? Now, do you think of anything? A. Why, the only answer ——

Q. (Continuing) That we could do for the companies? A. The only answer I can give you to that is it is reasonable for the insurance company to refuse a contract of insurance to the individual, as it would be for a merchant or banker to refuse credit, and the competition for good business is so great that competition would take care of itself. Now, you may restrict the privilege of a company to underwrite beyond its capacity or its ability to meet its obligations, by the payment of its obligations. That would be reasonable, as you do banking, but I doubt if you could consistently legislate to compel a company to assume a contract, which, for reasons of its own it would decline, and would hesitate to make public for fear it might be subject to a suit, and it would not care to assume.

We heard yesterday the testimony of this gentleman from Brownsville. As a conservative underwriter or merchant, you would restrict your liability in that section. It is a frame section, with only a limited amount of fire protection. Now, it is possible there may be two or three fires at the same time, and there are only one or two engines to answer those fires, and the first duty of the fire department when it reaches these premises, the department dealing with a case of uneducated people, would be to save life and neglect the property, and the result would be your property would be destroyed, and you would have, in that frame section, a large conflagration, possibly beyond control, for a reasonable period, by the fire department. Now, the insurance company, a great mass of them, say we do not want to insure in that section. They might say they do not like the class of people there, and we do not want to insure them, or the moral hazard is weak, or the class of men they employ are ignorant. You could not compel them to insure that class of men, and you could not name a rate, and the only remedy for this community is to adopt inter-insurance. Let

them insure one another. That is the only relief for them that I can see. They might be successful real estate holders, but I do not know how successful they would be in underwriting or banking.

Now, I do not want to take up the time of this Committee any further, except there is one other matter. You do not want me to illustrate Baltimore, or any large fires in New York?

Q. No, we have not time. I suggest, Mr. Tanenbaum, that you get the record and take the question the Chairman has asked of you, which rather sums up the problem, and be heard at a later date on that, if you can successfully answer it. A. I will try, and I will give the matter thought.

Mr. HURRELL: We will withdraw the witness at the present time, and swear the gentleman from Freeport before we adjourn.

THOMAS HORACE EVANS, called and sworn as a witness, testified as follows:

By Judge BRUCE:

Q. Where do you reside, Mr. Evans? A. In Freeport.

Q. What is your business? A. I am a physician and surgeon and teacher.

Q. How long have you resided there? A. Two years and a half.

Q. You have a complaint to make with reference to the conditions of fire insurance in Freeport? A. I have.

Q. We have heard several, and the Committee will be very glad to hear you, and the Committee will now give you the opportunity to make your complaint? A. In the particular neighborhood in Freeport where I live ——

Q. Where is that? A. 350 South Main street, in the vicinity of Atlantic avenue. I have had in my house one explosion of gasoline, and fire, which destroyed the building. I went across the street, and two brands have been put in the roof of the house where I now live. That probably would have something to do with the fact that I cannot get any more insurance. Now, it was not my intention to come before this Committee on the matter of insurance. Writing to Albany for advice where to make complaint, I was told you were sitting here, and in so far as I can say what

would be germane to your inquiry, I would like to speak. The general complaint I have, however, is lack of police protection, and the fact that it has been refused me on two occasions.

Q. That is a municipal matter that we are not concerned in. Have you any complaint to make on the matter of insurance, or any complaint to make in reference to the action of the Suburban Fire Insurance Exchange? A. Mr. Libley, one of the members, I believe, of the Freeport Exchange, has refused to increase our insurance on the building. That is, he has no power to increase it now, and cannot go beyond this Committee.

Q. How much insurance do you carry on it now? A. $2,500.

Q. What is the value of the building? A. Oh, safely $5,000.

Q. And why do they refuse to carry a larger risk? A. These reasons, I imagine, would be the explosion.

Q. When did this explosion occur? A. On Thanksgiving, 1908.

Q. From gasoline stored on the premises? A. No, sir; from gasoline purchased about 10 minutes previous to that, or rather coal oil, which contained some inflammable material I thought to be gasoline.

Q. For what purpose was it? A. Illuminating purposes.

Q. Stored on the premises? A. It was never stored; as soon as it was received it was placed in lamps; they were lit and it exploded.

Q. And the companies who are members of the Suburban Fire Insurance Exchange refused to write a heavier risk than that which you now have? A. They do.

Q. That is your complaint, is it? A. I would like to bring to the notice of the Committee, however, the fact that these incidents I speak of have occurred during certain other disturbing events in Freeport, some of which have been taken up by the Department of Health in Albany. I do not want to consume the time of the Committee on matters that it has not to do with, but it is important that something be done.

Q. How much insurance did you carry on this property prior to the explosion? A. $1,500.

By Senator COLNE:

Q. Have you got gas in the city? A. We have gas; yes.

By Judge BRUCE:

Q. And now, how much do you carry? A. $2,500.

Q. On the same premises? A. On the same premises.

Q. Where you had $1,500 before? A. Yes. That was increased subsequent to that, but not subsequent to the time of the brands which were found in thereof; two holes were burned in the roof.

Q. What companies have you made application to for insurance? A. The London and Liverpool and Globe, through Mr. Libley, I believe Mr. Edwards, of this city, 31 Nassau street, is the firm, and when we applied to him for the first increase it was granted; after these other matters have become public, in which he refused to consider the matter at all, but referred us to the local agents.

Q. Who is the owner of the property? A. Mrs. Evans, my wife.

By Senator COLNE:

Q. Would they insure you if you would put in gas? A. It was in at the time I first insured. No change has been made in the premises whatever on our part, except to enlarge the building.

Q. Do you occupy them yourselves? A. We do; we occupy both.

Judge BRUCE: That is all, Doctor. We will take the matter up.

Chairman MERRITT: We cannot have this chamber this afternoon, nor can we have the one across the building, until 2.30, so we will adjourn to meet at 2.30 in the Council Chamber.

Recess until 2.30 p. m.

AFTERNOON SESSION.

Chairman MERRITT: The Committee will be in order.

CLARENCE L. FABRE, called as a witness, being duly sworn, testified as follows:

By Mr. HURRELL:

Q. What is your business, Mr. Fabre? A. Insurance broker.

Q. You reside in New York? A. In Brooklyn; yes, sir.

Q. How long have you transacted business as a broker in this city? A. About 20 years.

Q. What was your business prior to that time? A. I was in the dry goods business.

Q. Merchant? A. Dry goods commission business.

Q. You are aware that this Committee is sitting investigating methods of fire insurance companies, and that the subject of the broker has been before the Committee many times, and many ideas have been expressed here as to what the Committee should recommend in the way of remedial legislation. You heard Mr. Eckert's testimony yesterday morning, did you? A. Part of it; yes, sir.

Q. I want to ask you in general if you agree with the general ideas that he expressed? A. Yes, the general ideas; yes, sir.

Q. Are you in business by yourself? A. Yes, sir — well, as a company, yes, but I am practically the company.

Q. With whom do you do the principal part of your business, with men having mercantile risks and factory risks to insure, or the dwelling-house business? A. Mostly mercantile.

Q. Do you maintain a staff about like Mr. Eckert described as being maintained in his office? A. About that; every broker has to.

Q. Inspectors? A. Inspectors.

Q. A variety of clerks? A. Variety of clerks.

Q. Print your own forms for policies? A. Absolutely.

Q. At your own expense? A. All at our own expense; yes, sir.

Q. And you keep track of your clients' business in general as outlined by Mr. Eckert? A. Yes, sir.

Q. What do you think should be done by the State in reference to regulating the Exchange? A. Well, that is rather ——

Q. In reference to brokers; I will hold it down to that. A. In relation to brokers?

Q. Yes. A. As far as the Exchange is concerned of course that is a matter, that is something that the companies maintain and run for their own benefit. They simply, as far as we are concerned, allow us to exist by reason of a license that they give us to do business with the members of their organization. So far as the State regulating them is concerned, I have not had any idea or any thought of anything of the kind. I have heard mentioned the idea, the question of a tribunal or court of appeals, for the arbitration, you might say, of questions that come up between the broker and the Exchange from time to time.

Q. Well, I will ask specifically, do you believe that this power of license which is now exercised by the Exchange should be taken from the Exchange and lodged in the State? A. The power to license?

Q. The power to license brokers. A. I earnestly think that that would be the best thing that could be done.

Q. Do you belong to the brokers' organization here? A. Yes, sir.

Q. Does that opinion, as expressed by yourself, Mr. Tanenbaum and Mr. Eckert, fairly reflect the opinion of the brokers' association? A. I think I can say without a particle of doubt that it is almost unanimous in our association.

Q. What is the reason that the brokers desire the State to license them rather than the Exchange? A. For the reason that — well, the Exchange seems to have no control over the brokers of this city, or those who call themselves brokers, because they have issued, as you know, some 8,000 licenses, and there are not that many brokers, really insurance brokers, doing business in this city; and I believe that if the State were to license the broker and have a direct supervision over the affairs of the broker, that you would not only have a better class of men as an intermediary doing business and acting on the part of the assured, but would do away with a great deal of — I won't say dishonesty, but a great many things that creep into the business that certainly are not straight and are not honest. I know of clerks in mercantile houses, I know of clerks in lawyers' offices, I know of clerks in all branches of busi-

ness, that are now licensed, receiving salaries in their particular vocation, and at the same time receive a license as a broker from the New York Fire Insurance Exchange, for the purpose, maybe, of placing a few risks, a few household furniture risks, or a dwelling, or a building of any kind, and receive the benefit of it. In some cases I know of men receiving the commission and turning it back to the assured whom they insure for that purpose. They are only brokers by reason of the fact that the New York Fire Insurance Exchange make them so.

By Judge BRUCE:

Q. How many brokers are there in New York who are doing an active insurance business? A. I should say there were not over 250; possibly 300.

Q. And the bulk of the business is done by about how many brokers? A. I should say 100 to 150.

Q. Now, in the event that the State was to license brokers, could you have that license issued after examination? A. Yes, sir.

Q. As to qualifications? A. Yes, sir.

Q. Would you also deem it wise to require of the broker a bond in order that he might be responsible, or his indemnitors might be responsible, in the event that he failed to pay over to the company the premium that he had received? A. That is a question; I have thought of that considerably, and discussed it quite considerably, but it is a question of how much bond the State would require, or the license would require the broker to put up; what is the size of the bond? We will say, as a matter of fact, it was $5,000. Any one of those 150 brokers, if they wanted to, and were really dishonest, could embezzle $5,000 or more very quickly; that is all.

Q. The cases of embezzlement or failure to pay over premiums does not occur with the large brokerage firm, does it? A. No, sir; it does not.

Q. That occurs among the smaller and more irresponsible parties? A. Yes, sir.

Q. Then a very small bond would probably safeguard that which now sometimes becomes a menace to the man who has paid his premium? A. That is very true.

Q. Consequently it would not be necessary to require a bond of the same amount that you have named? A. No.

Q. Well, assuming then, that the amount fo the bond, which is a mere matter of detail, would be made reasonable, would you deem it wise to requre a broker's bond? A. I think it would be a wise thing; yes, sir.

By Chairman MERRITT:

Q. To identify them as persons of some financial standing? A. Standing and responsibility; yes, sir.

Q. You regard the service of a broker in the nature really of a profession? A. I certainly do, sir; as the broker is interpreted to-day in New York he is practically a professional man.

Q. And the interests of the public is sufficiently in the hands of those men in that business, so that the safety of the public in its business in this particular line, you think, would be increased? A. I should think so.

Q. By an examination and license and bond? A. I should think so; most certainly I do.

Q. Now, in the case of a firm or corporation in the business, would you let the license run to an individual always or to the business organization, suppose you are a firm? A. No, mine is a small corporation; about a year ago I incorporated it as a corporation.

Q. Now, in that case, suppose your corporation was licensed, how many persons would a license like that be supposed to cover? A. It seems to me to license the corporation or its officers — as a rule there are never over two or three; hold them responsible.

Q. The question would raise right off, I fancy, why the organization of corporations consisting of a number of men who had been brokers, possibly — asking the State to license their corporation, and all of them, in fact, operating as independent brokers; that might occur? A. Yes, it might.

Q. Would there be any objection to that if it did occur? A. No; then I think each one should be licensed, each individual or officer of the corporation.

Q. That is, you mean so each person authorized to solicit business should be licensed? A. Yes, sir, I should even say that, because each office very frequently has a number of solicitors.

Q. You would treat it, then, as the State does in the licensing of pharmacists, the compounder of medicines —— A. Yes.

Q. Has to be personally licensed by the board? A. Yes.

Q. And a man may go into the drug business, but he may not compound unless he personally has that authorization; he has got to hire a licensed pharmacist; so you would apply to the same principle, and in your business, for instance, you might, as it enlarged or as occasion required, hire skilful men, who had had a broker's experience, on a salary, but you would think that they should be licensed as well if they actually engaged in the business of soliciting insurance? A. I think, where they are actually soliciting business, and that is their vocation, it seems to me that, whether on a salary or otherwise, they should be licensed, and a record made of it, so as to have them on record.

By Judge BRUCE:

Q. You belong to a corporation, do you? A. My firm is a corporation.

Q. Is a corporation? A. Yes, sir.

Q. Is your certificate issued to the corporation? A. Yes, sir.

Q. And were you required by the Exchange —— A. You mean from the New York Fire Insurance Exchange?

Q. Yes. A. I think it is; yes, sir.

Q. Were you required before the issuance of the certificate to file with the Exchange a list of your stockholders? A. No, sir, I don't think so.

Q. When was your certificate issued? A. I think that question came up when we were incorporated, and they asked me who the stockholders were, either in writing or over the 'phone.

Q. Did you furnish such a list? A. I think I told them that I was the principal stockholder, and one or two others in my office.

By Chairman MERRITT:

Q. Qualifying shares? A. Yes; satisfy them, at all events.

By Judge BRUCE:

Q. The reason I asked that is because Mr. Tanenbaum's firm has been refused a certificate on account of their failure to furnish a list of stockholders? A. I remember it; that is right.

By Mr. HURRELL:

Q. The point in your mind on this licensing question is, you would think the man who was dealing immediately with the public, certified to by the State as a man competent to deal with the subject of fire insurance with the public? A. Yes, sir.

Q. And whether he was acting for an unlicensed principal or otherwise, he is the fellow dealing with the public whom you would have licensed as competent by the State? A. Yes, for the reason that a man may at any time become an independent broker and set up an office of his own; the man in our business, the man that solicits and procures the business, is really the man, after all.

You know of his backing and all that, and what he is. It is that man, after all, that the public look to.

By Chairman MERRITT:

Q. He has a relation with the assured? A. He has a relation with the assured, and it is that man that they hold responsible at all times.

By Mr. HURRELL:

Q. Do you think that a fair examination of fire insurance principles and practices would curtail very many of those 8,000? A. It seems reasonable to think so. Our association, as an association, have invited in the past year or more all the reputable brokers in this city to join the organization, to strengthen it and support it, and in sending out invitations to the brokers in this city we could not find over 300 reputable brokers.

Q. That you cared to take into the organization? A. That we cared to take in.

By Chairman MERRITT:

Q. It is likely, if you had an examination and State license and a bond, that there would be no more than a thousand, anyway? A. Not in this city; no, sir.

Q. Would that deprive a large part of the public really, I mean practically, of the opportunity to insure at all? A. To insure; not the slightest.

Q. I will change the word "opportunity;" is it likely that a large amount of insurance would fail to be written in view of a change like that? A. I did not quite catch the question.

Q. Would it be likely there would be a large amount of insurance which would not be written at all if the number were reduced to 1,000 or 1,200? A. I do not think so, for the reason that the great quantity of these brokers, as I said before, are licensed; some of them are not doing a particle of business to-day. I have no doubt others may be doing their own business.

Q. You think there are enough people who would look up insurance brokers so that they would get all the business there was, practically? A. I think there are enough people in this city that have confidence — I mean to say the insurance people of this city have confidence and know enough to-day about the professional services of an insurance broker to always get one if they are licensed by the State of New York.

Q. That would take care of itself? A. Yes, sir.

By Judge BRUCE:

Q. Now, would you go a step further, and have the State fix the rate of commission? A. Would I?

Q. Yes. A. If you will allow me to qualify my answer first, I will be very glad to tell you what I think of it. I think if the State of New York should license the insurance broker in this State, and the State of New York would pass an anti-rebate bill, prohibiting rebate of insurance, the same as they do in life insurance, and they would amend section 137 of the affidavit law relating to surplus line insurance, I then think that would surround the broker with sufficient protection, and the assured with sufficient protection, to invite, on the part of the brokers, the right-minded brokers of this city, a bill or measure to limit the rate of commission for all classes of business; that is to say, limit it to one amount, say 15 per cent, all classes of business, plate glass, fire, liability, steam boiler, or anything else; aside from life, of course.

Q. How would you amend section 137? A. I have it, but I haven't got it very clear in my mind; but I have worked on it and studied it somewhat, and I have got it on my desk, and if I thought I was going into that I would have brought it with me.

By Mr. HURRELL:

Q. What is the substance of the amendment that you think section 137 ought to have, without being particular? A. First, the incorporation in it of Lloyds, to eliminate Lloyds from working in this State, either by adding, or by any broker or through any source whatever except only a legitimate surplus line business, where an affidavit has been filed at Albany; Lloyds, or any other association that ——

Q. That is, to get after these underground insurers, Mr. Benedict expects to speak on? A. Yes.

Q. This anti-rebate thought has been already enforced in this city, hasn't it, through the agreement of the companies in the Exchange? A. It has; yes, sir.

Q. Now, have you found that worked in actual practice here? A. I found that business left our office by reason of rebates being offered on the part of competitors. You could bring them before the notice of the Exchange, but I do not believe the Exchange would dare push any broker, any reputable broker of standing in this city, to the full limit of their rules and regulations; they might.

Q. Why don't they do that? A. I don't know why. I have seen case after case, and been aired in the papers, and we have heard of them on the streets, but they have finally kind of simmered out, died out, nothing came of it.

Q. Do you think it would be the idea in the minds of the members of the Exchange that it would deprive a very strong man of his license; that it might raise so much trouble that it would invite public attention to the Exchange adversely? A. Possibly that fear has permitted them to drop the matter when it has come up from time to time.

Q. Have you ever heard it alleged, without making the charge yourself, that where a rebate had been found by officers of companies securing a broker's license, that they were then writing for their companies lines of insurance? A. No, I have never heard that.

Q. You do not believe it, either? A. I do not believe it; no, sir.

Q. Do you suppose that those cases that you spoke of, where you suspect business has left you because the other fellow was rebating,

that if the State had issued the license that you would be able to bring home the evidence to him before a State board or the Superintendent of Insurance, so that he would lose his license? A. I think so, because supervision by the State would empower them to walk right in his office and examine his books.

Q. I assume that a man going to do any rebating would do it in a way possibly, that he would not leave a record? A. Then it would be harder to do it than it would now. We have laws against all kinds of things, but we cannot prevent murder, or we cannot prevent robbery, but we try to minimize them.

Q. But you do think it would help somewhat if the State should have that on its statute books? A. I think it would help very materially; yes, sir.

Q. Now, have you ever been in conflict with the New York Fire Insurance Exchange on any proposition at all? A. Well, from time to time; I think every broker in this city has; yes, sir, I have; from time to time.

Q. In what way, for illustration? A. Well, we have had the question of forms and the question of rates, and more than a dozen questions which come up; certain clauses to be attached to policies that we do not want, and we thought it was for the best interests of the assured not to have; they exact certain forms on policies that the assured want, that we want to have written, usually we find out we come out all right, as a rule.

Q. Did you ever have any controversy with the Exchange in the matter of applying the schedule to any given risk, where you have tried to save the assured money by having him correct defects, and then you would take the information to the Exchange that the risk had been improved; have you ever had trouble in getting the Exchange to reduce the rates when you claimed it ought to be reduced? A. Well, Mr. Hurrell, I think that working along their rules and regulations — no, I cannot say that I have ever been refused a reduction in rate where we followed the rules and regulations.

Q. Have you ever heard of any other broker having a long-drawn-out controversy, where it took as much as six months to get the Exchange to act in the given situation? A. Yes, I have heard that myself, but in the end I have always won out.

Q. That is what I am trying to develop, just how much pressure

have you got to bring on the Exchange, to bring to bear on the Exchange; have you got to go through a lot of red tape, or have you got to bring politics to bear on the Exchange — I mean Exchange politics, not extraneous politics; have you got to bring political pressure before you get the rate down? A. No, I do not think so.

Q. Where, for instance, in this particular case, where you had the six months' job in getting the Exchange to adopt the reduction of the rate, tell us that incident, will you, please? A. It was an instance of a concern, a large concern, I think it was aired in the papers at the time to some extent, for instance, of a large concern whose business I procured, and the Exchange issued schedules showing the rate. The assured went to the trouble, and I went to the trouble, of procuring the reduction. We spent money and time; that is, the assured did, and when they were complete, and the insurance was about to be transferred to my office, and in fact it had been, but we were about to have the insurance renewed, the Exchange refused to honor their schedules or their previous statements of fact, because in the interim a new rate had been passed by the Exchange prohibiting a reduction of that particular risk until a new inspection was made on the part of the Exchange.

Q. On that particular risk? A. Yes. In other words, the time limit for the age of that schedule had expired. Now, they had overlooked it, and we had overlooked it. It was really a pretty hot controversy for the time, but with proper arguments and a great deal of time, and some persuasion, I don't know as there was anything in the way of a threat, because there was not anything you could threaten with, we finally induced them to make the reduction.

Q. Now, I take it from what you have said, you spoke of the time limit on that schedule having expired, is it a fact that every time the Exchange adopts a schedule that they put a time limit on it for the advice of all persons dealing with that schedule? A. Yes; that particular schedule had a time limit ——

Q. And your trouble extended for six months —— A. I had not had the business for that time, I just got it just about as the time limit was expiring, and as they made this rule for the time limit.

Q. And you were not acquainted with the time limit, that is

what led to that trouble? A. There was no time limit then, because they just made the rule. It was transferred to me just at that time, and the expiration of the time limit, had there been one, and the making of the rule all came simultaneously.

Q. You mean the old schedule that applied to your risks, that went out, you supervised the correcting of the defects just then, but that schedule had no time limit on in the beginning? A. No, sir.

Q. Then just after you had got the defects corrected, they put the time limit on, they made the new rule? A. They made the new rule just at that time.

Q. Mr. Eckert spoke of an incident yesterday, of the Rector's Hotel, I think, where he took the plans, and where any broker taking care of that amount of insurance would take the plans, and taking the knowledge that the broker had of the schedule put forth by the New York Fire Insurance Exchange, he would work over the plans so as to get all the credits they could out of the schedule by having them conform their building plans to that schedule really. What I am getting at is what reliance had he that just as soon as he went to all that trouble the Exchange would not change the schedule again? A. He hadn't any, probably; he had no absolute reliance on it. They change their rules from time to time, and you have to conform to them; but I think if you go to them and demonstrate that so much work has been done — I have done it in a number of cases, such as I have spoken of before, just for example, where rules have changed about the time you have taken it up, about the time you have finished the work on a certain risk that it would affect, that is, they change the rules so that it would affect that very risk, if you go to them and demonstrate you have been working on it and met their previous rules and requirements, and that there has been some delay, and they have brought out a new rule affecting it, you would find they are fair enough. It may take time and labor on your part, but I think they are always fair enough to agree with you in the end and give you some leeway, some satisfaction, I should say.

Q. You have lived through some rate wars in this city, have you? A. Yes, sir.

Q. And a rate war is usually a state of anti-compact, is it not? A. Yes.

Q. Where they are not together? A. Yes.

Q. Which, in your opinion, is the better public situation, a situation resulting from anti-compact legislation, or conditions or a situation where they are combined in this machine they have got here? A. Speaking from strictly the standpoint of the assured, I think the present system of rating is far more beneficial to the assured than a rate war in this city, because in the end it simply means that the assured is going to pay for all that they may temporarily gain in one year in insurance at a low rate.

By Chairman MERRITT:

Q. What about it from the standpoint of the broker? A. From the standpoint of the broker I think the broker would be better off in a rate war; that is, I found it so in the last rate war we had, and I can speak only from that experience; on the other hand, I have heard many brokers say who have lived through more than one of these rate wars that it is very disastrous to them.

By Mr. HURRELL:

Q. In what way do you figure the broker would be better off? A. You are a free lance and you have got an opportunity to get a great deal more business as a free lance; and on the other hand, while the rates may go down, the commissions always go up.

Q. That is the condition, then? A. Yes, sir.

Q. They get to bidding against each other for services of various brokers? A. For the business of various brokers, not the service.

By Judge BRUCE:

Q. Don't you think, if the government allows combination, it ought to insist upon supervision? A. I did not catch that.

Q. Don't you think that if the government allows combination for the purpose of fixing rates it ought to insist upon supervision? A. That seems to be the order of the day.

Q. Isn't it the order of right and justice? A. It would seem as though there were some fairness about that; yes, sir.

Q. Should the government allow any combination to control the

price of a necessity without reserving to itself the right of supervision? A. If the supervision is fair and equitable it seems to me they ought to.

Q. Insurance is a necessity, is it not? A. Yes, sir.

Q. This combination we have here in the Metropolitan district absolutely controls the price, does it not? A. They control the rates to-day; yes, sir.

Q. That is, the price of the commodity? A. Yes, sir.

Q. Now, under free institutions, do you think you should permit a combination of individuals or companies to control the price of a necessity without reserving to the government the right of supervision? A. I think the government ought to supervise it; yes, sir.

Chairman MERRITT: Suppose you change that question a little, Judge.

Judge BRUCE: I have used almost the same form.

Chairman MERRITT: I know you have; that is why I suggested changing it. Assume the right of supervision to exist anyway. It is a mere question of the wisdom of supervising it.

Q. I do not mean a supervision which would in the first instance take an initiative and fix a rate, but allow the companies to fix a rate, and allow a department of the government, say for the matter of argument, the Superintendent of Insurance, the right to supervise the rate, and, on complaint, require the companies to show cause whether or not the rate is just and equitable, and if they find upon the evidence it to be just and equitable all right, or if they find it to be unjust or inequitable, then to have the right to modify it? A. That seems to be perfectly proper and correct.

By Chairman MERRITT:

Q. Do you think a classification could be made accurately enough so that decision on a rate could extend beyond the specific rate in controversy? A. I do not believe I quite catch your question.

Q. I say, do you think that classification can be made accurately enough so that an appeal on a specific rate to a board or department could be met to operate beyond the specific complaint, and could be applied to a class which has been established; in other words, does your experience in the fire insurance business indicate

that there could be a large number of fairly accurate classifications? A. Well, I will tell you, Mr. Merritt, I have never studied the methods of rating further than a few schedules. The schedules that come up of specific risks in our office. I do not believe I am competent to answer that question.

Q. You can answer this question, then: In the great mass of the risks which you handle, to what degree are any of them practically identical? Is there, or is there not, almost always in each individual case, differences? A. Yes.

Q. Which control the final rate? A. Yes, there are very few risks identical, except in certain specific warehouses or in preferred business such as dwelling houses and household furniture, schools and clubs, and things of that kind, but, so far as mercantile risks are concerned, there are very few that are identical.

Q. Every attempted classification would have for every risk, perhaps, some difference which would be reflected in the final rate? A. Yes, because the surroundings of that particular risk, or the physical condition of that risk, would make a difference as against the fellow next door or the man uptown.

Q. Now, in such matter as transportation, of course, they are able there to make classifications of transportation of particular kinds of goods; there is first-class freight and second-class freight and sixth-class freight, and all of them, and they can get just about as substantial accuracy there as the life insurance people can as their basis? A. Yes, sir.

Q. And on this talk of regulation, the judge has asked this question of a good many witnesses, the only reason that I ask it is that I am trying to find out from you whether, in your experience, the regulation could proceed beyond each specific case, whether you could classify the risks accurately enough from your standpoint as a broker, so that you would feel, if you were going to represent an assured person before the board, as you might have occasion to do, or the superintendent, or whoever the authority was that you could appeal for a rate on a classification, or whether it would simply have, probably to be on the specific risk, and the decision could not go any further than that? A. It would have to go on the specific risk, I should think, for the reason that there is a classification now in existence for different classes of business, and that is

applied to each class of business, but when it comes down to the specific risks it is the surrounding physical conditions and all that; the charges are added to it — which would make two people on the same line of business and in the same sized building and all that — maybe one paying a very much higher rate than the other, owing to entirely different surroundings and different physical condition of the building.

Q. It may not seem very important in the general argument on the question that we have been discussing, but it does have this bearing, when you assume for the sake of argument that the State has the right to regulate. The question which would finally be the most important one, after all, would be whether it would be wise to attempt to do something of that sort which could not be applied except to specific cases, and that would enter into the consideration of the committee of the Legislature in attempting to pass any regulative legislation.

By Judge BRUCE:

Q. It could be applied to a base rate, could it not? A. It could be applied to a base rate, but that would require, it seems to me, somebody with as much experience to pass upon those as those who now make the rate.

By Chairman MERRITT:

Q. Not necessarily that, because they are not trying to make the rate. They are only passing on the evidence presented as to what is fair. The illustration was brought up the other day of a witness, as to the comparison of the court; the court is not an expert on a case of poison; it could not analyze tissue, but it can fairly consider the evidence that is produced on one side or the other and come to a uniformly fair decision as to the final result, and that is all it ever could do. Of course, if you were going to try and have a commission or a superintendent who could make a rate, everybody would probably want that he should be the wisest rate-maker that had ever happened? A. Yes, that is quite true.

Q. And you would not be likely to get that man; figuratively speaking, the corporations would have him? A. Yes, sir.

By Mr. Hurrell:

Q. If you had such a board, that even had the power of review to the extent of vetoing a particular rate, and that veto cited a company in to show cause why it charged the rate it did upon your clients' property, one of the necessary elements in that rate would be the company's experience in that class of property, wouldn't it? A. Obviously; yes, sir.

Q. You could not get a piece of property that would not fall in some class or other? A. No, sir.

Q. And it would have to be in one class or another or the company would not have anything to talk about? A. Yes, sir.

Q. So the company would have to show their experience in that class to find out the starting point or the base rate, or the key rate? A. Yes, sir.

Q. And then they would go on to show cause as to why this particular risk was rated higher than its class? A. Yes, sir.

Q. By reason of the outside exposures, and the inside exposures and all the defects, etc., etc.; all those things enter into the making of a rate, do they not? A. Yes, sir.

Q. What do you think, as a practical man, of the advisability of the State establishing such a board as that to go into that business even as a reviewing board; would you say the State would be trying a rather dangerous experiment, or that it would be doing something that the broker and the assured want done? A. Well, I cannot speak for the brokers, but I can speak for myself, and I can speak for the assured at large; that is, such assured as I come in contact with.

Q. If you will remember when you were discussing that thing some time ago with me you were inclined to favor such a board, and I would like that discussed? A. If it is practicable, it would be a very excellent thing, but it strikes me as being, the more I think of it — the more I think of it, the more I have thought of it, it strikes me as being impracticable.

Q. Why; where does the impracticable side of it come in? A. To begin with, the appointment of such a commission — who are the men to be appointed to pass upon such a question as comes before them; what class of men are you going to have; and what experience have they had, and aren't they in the end going to really

get down to the very basis of the whole thing, and that is making of rates, and aren't they going to finally establish and oblige the State to retain probably as large an organization, as large an outfit as the New York Fire Insurance Exchange itself, which is a very expensive organization; and then again, are not politics, I mean politics from an insurance standpoint, going to work into that thing somehow or other? Isn't one man going to be favored by his particular friend who might be on that board of appeal; there is one and a thousand things to consider, it seems to me, to make it practical.

By Judge BRUCE:

Q. That would apply to all our courts and juries, would it not? A. Very true.

By Mr. HURRELL:

Q. The establishing of a large rate-making machine would not apply to our courts and juries, would it? A. No; personal influence, I think, he referred to.

By Chairman MERRITT:

Q. What information would the broker be able to furnish the State or a department, if that would be of value, provided that in a sense they were taken under the protection of the State and licensed, and all that sort of thing, that we have been talking about? A. Well, they would be able to give them any information that the State might call upon them for.

Q. What phase of the business could they cover, for instance, losses? A. No; I think there is a great deal of insurance issued in this city and this State that is placed in companies not represented to do business in this State. This may be one phase only, not represented to do business in this State, that are underground or wild cats, or anything you want to call them. They are not complying with our laws, and they are not paying any tax, and they are not in any way under supervision of the Insurance Department of this State; and while I know, as a matter of fact, and I think many of them and all other brokers have their hundreds and thousands of dollars worth of risks in this city alone that are insured in such companies

through brokers who come to them and offer the insurance, the assured is always sensitive on the question of insurance, and he is always willing to find a way to beat the rate if he can or get a lower rate of premium, which is perfectly proper to do, but at the same time he, relying upon the statements and assurances of brokers or insurance men, we will say agents of brokers, they will accept a policy of the London Lloyds for one million or two million dollars and consider themselves all right.

Q. Which really ain't worth the money paying for it? A. I do not say that, but they are not under the supervision of any law in this State or this country, and if a loss occurs and a question arises under it, as I know of cases they have, they have got to go to London to sue and recover.

Q. They are misrepresenting the real worth of the commodity they are selling? A. That is practically what they are doing, and if the State supervises the brokers as they do the insurance companies, you would have a perfect right to — you would very quickly find that that broker was selling something, to begin with, that he ought not to sell under our present laws; and the next question is, you could very soon show the assured that he was not getting the indemnity that he was paying for.

By Judge Bruce:

Q. Then your idea would be that your licensed broker does not write for any company that is not admitted to do business in this State, and that he be required, as a condition of his license, to state the companies he is writing for? A. If he is called upon to do so; yes, sir.

By Chairman Merritt:

Q. Wouldn't that be a very necessary condition? A. Yes, sir; I think the bill that was introduced last spring in the Legislature provided for all that.

Q. What was the name of the bill, do you remember? A. The Allen bill.

Q. Last year? A. It was introduced in the Legislature last year for the licensing of brokers; I think it was called the Allen bill.

Q. That was introduced by Augustus F. Allen in the Assembly? A. Yes, that was the bill.

By Mr. HURRELL:

Q. That bill sought to —— A. License and supervise the transaction of the business of brokers in this State.

By Chairman MERRITT:

Q. There ought to be some way by which a broker who offers insurance or represents the assured, as he does, should be responsible for the character of the company that he is representing; apparently, it must be certain that no man who is trying to get insurance ever represents to the assured that there is any question about the solvency of the sort of thing that he is offering, because otherwise he could not sell it at all? A. No; but there are so few assured that know anything about solvencies of the companies. They have heard of the London Lloyds and heard that it is a great organization, and it is a great organization; they have heard that they usually pay their losses, and they are just as good as any company you can get, maybe, here; and they are willing to write in it; the expenses are so much lower, and a good talker can soon persuade the insured, especially when he sees 15 or 25 or 50 per cent reduction in rates staring him in the face, that it is just as good indemnity as he can get in New York city.

By Judge BRUCE:

Q. Do the Lloyds give that much reduction in rates? A. I have known them to give 50 per cent.

Q. Has there been very many failures among the London Lloyds? A. There is a group that failed within the last 60 days, called the Angove group; they failed; and out of a group of 10 men, four of them absolutely became insolvent and refused to pay any losses on outstanding policies. I happened to have four of those policies on property out west, and I promptly recalled them and returned them to London.

By Mr. HURRELL:

Q. Did you hear Mr. Tanenbaum, yesterday and to-day, expressing himself on the idea that the companies were conducting their business in a very unbusinesslike way, in that they write on risks

in the congested value districts that was in excess of their own assets? A. I did not hear him, but I read it in the morning paper.

Q. Do you think it would tend to the benefit of the business community if the State so restricted companies in their writings that companies would not place themselves on risks and subject to being wiped out by one conflagration? A. I do not see where the assured is going to be benefited to any great extent.

Q. You don't see where he would be? A. No.

Q. It is a fact, is it not, that in some districts of New York, if there was a conflagration, wiping out several blocks, several companies would be wiped out, because they would not have assets enough to pay their losses in that particular district? A. They might; but in San Francisco — when almost the entire city of San Francisco was destroyed by fire, after a good many companies really failed — a great many of the companies were very seriously impaired, and the stockholders came to the rescue and put up sufficient funds to pay the losses, some of our strongest and best companies.

Q. Of course they did not have to if they did not want to? A. No, but they had a valuable business to protect, and they protected it.

By Judge BRUCE:

Q. Some of them did not pay over 10 cents on the dollar, did they? A. Those were companies — I do not know of any companies that paid as low as that. I know of some of them that did not pay anything. I do not know of any of them paying as low as ten cents.

By Judge BRUCE:

Q. Mr. Tanenbaum spoke of some that paid ten, fifteen and twenty.? A. Yes, I have heard of some paying as low as forty. But in fact it is on record, and if you desire you can get the record by asking for that. They will give you the exact figures.

Q. Do you consider that there should be a prohibition with regard to conflagration districts; that each company should be prohibited from writing over a certain percentage of its surplus and capital in a conflagration district? A. That is a question I have

never gone into. It is a question entirely out of my province. Although I think, for the benefit of the assured, I tried to give some thought and attention to it. At the same time very few companies in this State in the last few years have failed, or that I have heard of that have actually declined liability; in other words, they have been strong enough to pay all losses that they have sustained.

Q. That is because, perhaps, they haven't had any conflagration? A. We have had three in the last ten years, Baltimore, and San Francisco, the largest one in existence.

Q. I am speaking of New York? A. Yes.

By Mr. HURRELL:

Q. You are aware of the existence in underwriting of difference in practice between certain large companies, that won't go beyond a certain amount in the congested value districts, and certain other companies that will take any amount they can get, substantially? A. I believe that is true.

Q. As an insurance man, don't you know there is a policy of some companies that they will not put themselves at risk; take the Continental, for instance; it is generally understood in insurance circles that they won't go beyond a certain amount, won't take a dollar's risk beyond their ability? A. No, I don't think the Continental — I don't think any well-managed company in New York city to-day should take a tremendous amount in the congested districts. I think it has been their aim since the San Francisco fire to cut down or reduce their liability in that district.

Q. And the term "well-managed company" means companies managed by men who are alert to see that at no time their companies are at risk in these conflagration districts beyond a certain amount? A. Yes.

Chairman MERRITT: That is the question, as to whether a State ought not to make compulsory what experience has demonstrated to be sound and conservative policy.

Mr. HURRELL: That is the question. That is the question Mr. Tanenbaum put up to this Committee.

Chairman MERRITT: It is difficult, isnt it?

The WITNESS: It is. They might go right down to Philadelphia, or another State, and do anything they like, or they might go to Chicago and do anything they like, or to any other large city.

Q. If the State of New York said to New York companies that they, for instance, could not go in a congested valued district in any city; the congested valued districts are all marked out by the National Board of Fire Underwriters, are they not? A. Yes, sir.

Q. And the members in the home offices of the companies have the maps of each district; they know the congested valued district of each city, and it is simply a matter of addition and subtraction for a company to arrive at the amount it has at risk in any congested valued district, isn't it? A. Yes.

Q. I will assume, if the State wanted to go as far as to make the foreign company or the company of a different State, coming into the State, comply with the same conditions, by the simple requirement that they should not be at risk in any congested valued district, that such a company could be made to comply with that rule as well as a company within the State? A. Yes.

Q. Have you anything in particular that you wish to recommend to the Committee, or bring to its attention, on this general question; in the abuses of the Exchange; or any others, other than you have treated? A. No, sir, not other that I have already mentioned; I have no complaint.

Q. What do you think of licensing of brokers? A. The strongest recommendation I can make is the licensing of brokers by the State, and the passing of an anti-rebate bill, amending section 137 of the surplus line; and after that, if the State would pass a bill limiting the commission paid for brokerage on all classes of business it would simplify matters very materially. At the same time I think it would benefit the assured, the companies, the public and the broker.

Q. You think it would be finally reflected in the rate to the public? A. I would not be at all surprised.

Mr. HURRELL: That is all. Mr. Benedict.

SEELYE BENEDICT, called and sworn as a witness, testified as follows:

Examined by Mr. HURRELL:

Q. Mr. Benedict, what is your business? A. Insurance brokers.

Q. Do you have an office in New York city? A. Also one in Brooklyn.

Q. What is your firm name? A. Benedict & Benedict.

Q. How long have you been in business here? A. About 35 years.

Q. Have you anything you wish in particular to bring before this Committee in response to request of counsel? A. Well, I have. About a year ago I gave considerable study to the questions of insurance, insurance in this State. I did it principally from no special advantage to myself, because my firm have never taken any Lloyds or unauthorized companies, except strictly under section 137, making an affidavit a joint with the assured, and filing that with the department, and paying the required taxes.

Q. Now, will you just explain for the record, what is meant by the term, "Surplus line insurance on affidavit risks?" A. It means the risks in the city where, after the broker has exercised due diligence he finds that after offering it to all the companies in the city it is impossible to comply with the requirements of the assured; and under the provisions of section 137 the broker joins in an affidavit with the assured to the effect that he has not been able to get him sufficient insurance, and he files that affidavit with the insurance department, which is made public, and unless some of the representative companies indicate that they are open for lines, he then proceeds to complete the requirements of insurance in unauthorized companies, file the affidavit, pays the taxes, on that, and his insurance, therefore, is negotiated strictly under the laws of the State of New York. The previous superintendents have been rather lax in regard to the construction of that law. The law of the State of New York was very defective in that it made it legal for brokers to go outside for surplus insurance in unauthorized insurance companies; and it never specified anything in regards to Lloyds; it left the question of Lloyds an open question, although the affidavit, which the special agents — and there is only a limited number of them — the special agents have a special license from the department, to engage in this unauthorized insurance. I think that should include Lloyds. But the large mass of brokers, who hold no special agents' license at all, the department is without any jurisdiction over these brokers and the agents are at liberty to negotiate policies in the London Lloyds, without any supervision on the part of the department; without making any affidavit or

paying any tax; a condition that has existed here for a number of years, and has precipitated a growing evil. That is that London Loyds come here, and while our insurance companies maintain these bureaus for the regulation of buildings, for the regulation of explosives, for the regulation of hazards, and all that sort of thing; and are paying large taxes to the State for that; and they also have bureaus in regard to electricity, for protecting life and property for the citizens of New York; they have bureaus for the proper introduction of sprinkler equipments and all sorts of protection features. These unauthorized insurance companies, when that property has been brought to that degree of protection, come in here and run after this business, paying no taxes to the State, not being amenable to all, to the department.

And furthermore, they laterally aim to include in one contract several kinds of insurance not permitted to the authorized companies to insure. For instance, they will issue a policy covering fire and burglary in one contract. According to our laws, our fire insurance companies here cannot write burglar insurance. I noticed in the papers the other day, in the forms of insurance adopted for London Lloyds, they had special forms, of fire contract, fire, burglary and theft, dwelling house fire, dwelling house fire, burglary and theft; a general policy embracing in one comprehensive form all classes of insurance. And it has occurred to me, that, unless the department, leaving out the question of discrimination between authorized companies and unauthorized companies, that the department might well grant to our companies here license to transact business, the fullest liberty to write this business in half a dozen classes, not one class, they are going to go far towards excluding the depredations of these companies who are aiming to secure this business under conditions denied to the companies regularly authorized to transact business in this State.

Furthermore, it occurred to me, as vey pertinent, that if the insurance department is going to investigate, is going to have companies authorized here, put up capital and assets, is going to be examined, if they are going to be regulated as to the class of their investments, if they are going to be taxed, if they are going to be investigated and regulated in every way, it seems to me, the insurance department stultifies itself, unless it imposes the most

rigid rules and regulations for the exclusion of unauthorized companies, wild cat, or any other class of companies, no difference how reputable, English Lloyds or anything else, that does not comply with that law.

It seems a reasonable proposition that if English Lloyds, an honorable body, wants to insure the property in this State, that they should come forward in man-fashion and obtain a license from our insurance department, and conform to the same requirements that the insurance of our State conforms to.

Q. Mr. Benedict, you are the agent of which party in placing business? A. We are the agent of the insured.

Q. Do you concede the right of the assured to make a contract of insurance anywheres in this world? A. Certainly.

Q. Then the assured would have the right to make that contract of insurance in London, England? A. Certainly.

Q. Or with any body of gentlemen or companies he could get to take his risk? A. Yes; I presume he would.

Q. How are you going to get at this evil, that you have put forth, if you, a broker, the agent of the assured, doing for him what he has the right legally to do for himself, acting for him in placing his risk in London? A. There is only one way you can do it and that is if the brokers had a license from the State, I think it is claimed the State in granting that license would have the right to prescribe what class of business the broker or agent could transact within this State. And if the insurance department grants a license to our companies here that are admitted to transact business in this State, they certainly prescribe the kind of business they are going to transact in this State. I think if the brokers enjoy a franchise from the insurance department, and they were certified under that franchise, they would be amenable to the department for the kind of business they transact in this State.

Furthermore, I cannot give you the citation on the point you spoke of, where in Pennsylvania, where that allegation was set up that the broker was the agent of the insured, and consequently the State could not control. I think that some legal lights can give you the precedent where it was decided that the State did not control the assured, but they could control the intermediary in that transaction. That is, you would, as a practical matter, control

that by handling the individual in making his contract? A. I would.

Q. By saying to him, if it is true, you can under the constitution place your contract for insurance outside, you can do it yourself, but you can't use these licensed brokers to do it? A. That is just it. It is also true that the public generally respect the supervision of the insurance department. They feel safer. The public would not of their own volition go after these unauthorized policies. But it is the competition of broker, where they come forward and educate them into it, and induce them; and the assured, in my judgment, would not be at all disposed to negotiate policies particularly involving such large amounts as is usually the case in London Lloyds, unless they had an intermediary, a responsible factor actively negotiating on this, and at the same time looking after the validity of the policy and the settlement of the loss. They want the broker, and if the broker can't negotiate these contracts directly or indirectly, they are not likely to be negotiated; and if the insurance department supervised this very important question, restricting the intermediary, I think the intermediaries themselves in their desire to observe this law would automatically regulate themselves so that preferentially in the question of licenses by the insurance department, and will submit to examination.

Q. Do you believe you would have a system growing up here, if such a law were on the books, that the agent or the broker, who knew this class of business in New York city would just as leave shift it in New Jersey, and have an office in Jersey City to do that kind of business, and that the business done with those unauthorized insurance companies go through that Jersey City office? A. That might possibly be; but I think this whole question is, or might be a question of not absolute perfection. But it would be a question of gravitation and tendency to the situation. If you have a broker licensed by the department, maintaining an office in New York, it would be up to the insurance department to see to it that he does not avoid the law by negotiating these contracts in another State with his business and office here, and affiliate with them, and the profits are interchangeable.

Q. It seemed to me that he might do that and not leave a

record of it in his New York office? A. It would, but it would very much minimize the evil. We have laws in this State against burglary and we have laws against murder, and yet they do still commit murder and burglary, but it minimizes it. I have always felt that the importance and responsibility and respectability of the insurance department was called seriously in question when they spent so much time in investigating and regulating companies that are virtuous, and have to pay the money, pay the taxes, and attend to the construction and protection of the city, and pass over lightly the depredations of companies from the outside that contribute nothing to the public good.

Furthermore, gentlemen, you should take also into consideration in this matter, that by the laws of the State of New York our citizens are denied the right or organization to engage in the kind of business which is transacted in London Lloyds, and you permit the citizens of London to come to New York without tax, without contribution of anything for the public good, and take the business away from the companies that you are regulating and protecting, although you deny to our citizens the same privilege.

Q. I want to ask you if — whether your criticism of the insurance department, just expressed, was a criticism that it was not doing what it now had the right to do, or that it didn't have the power to do what you think it ought to? A. It doesn't have the power to do what it ought to do. I am speaking of the morality ——

Q. Of the conditions that exist? A. Of the business morality. You see the broker who is moral could not be a very responsible factor in this business. In these important contracts, in London Lloyds, if they are negotiated through a responsible brokerage firm, there is a feeling of protection on the part of the insured more than he would enjoy if he was doing it directly himself. There are many evils that creep into these transactions, that seem to me, are against public policy. For instance, in some important Lloyd contracts, that come within my notice, where the policy is not issued with the warranty general under, say, section 137, they are generally issued warranted with the London, Liverpool & Globe, the Royal, and some other large companies, which have policies of the same forms and conditions and so forth, and you

would have the same assurance that a settlement would follow, a settlement in one of these companies; but where an abstract contract is written, where Lloyd has no agent, no office, no representatives in this country, sometimes the laxity of their regulations over there permit them to issue those contracts where they leave it to the broker to adjust the losses. If the broker is the agent of the assured, there might be a contract here where the adjustment of that loss was against the merits of the contract; where they went beyond the question of the indemnity and leave the insured more than he would be entitled to, because the insured have everything in their hands, provided the loss is settled, it is certainly against public policy that insurance companies should pay a loss over here for the encouragement of future business, where there is a profit to the party that has sustained the loss, beyond the actual compensation for loss sustained.

By Judge BRUCE:

Q. How much of this Lloyds insurance is carried in this city? A. Considerable of it; quite a great deal of it.

Q. What would you say is a fair estimate? A. Well, you would have to make a distinction between the Lloyds policies that are carried by representatives of these special agents, and there are only fifteen or twenty, where they have to pay a tax, and the Lloyds that are negotiated by that large class of brokers outside, who are not special agents and do not pay a tax. Our experience has been, in the past few years, that brokers who originally had special licenses to secure that business, but now they don't want them; they had rather not be under the department, and especially free from any provision of section 137. The evil has grown in the last decade by leaps and bounds. But I think that the degree of the exploitation of this evil is going to depend very largely on the attitude of the department in the next session of the Legislature. Now, I should be very luctant to express these sentiments if I felt at the present time the public demand was for these contracts. But the public demand is not, except as they are educated by the brokers; and as brokers gradually get one or other important insurer to take this sort of policies that are not in the insurance department, or in the provision of the insurance depart-

ment, it becomes contagious. It seems to me, the question involved, is that all restrictions should practically be abolished, or else draw the line very closely as to those who come in and enjoy the privilege of coming under the supervision of your department.

Q. You appreciate some of the practical difficulties that are in the way, don't you, Mr. Benedict; here, for instance, is this question of the Fire Insurance Exchange. I assume you will agree that the Exchange has been a benefit to the community at large? A. I do, very substantially.

Q. You believe in it? A. I do. I do not know anything about whether their rates are equitable or not, but I think as to the methods of their business, the scientific way in which they have conducted it, they have to-day represented in their office there — I have listened to the testimony on the stand here, which I have felt has been governed a great deal by personal interest. But I believe that the general sentiment is, that, without regard to whether the rates or classifications or schedules are correct, I think that as a business method it has been a very good thing.

Q. Now, that is a combination of companies? A. Yes; to maintain the rates. Now, every broker that has come before the Committee, I think, that is with the exception of the brokers who have lost their licenses, say that same thing; tell the Committee that the Exchange is a good thing? A. I don't know anything about rates. Our tendency has been to cut rates. I have never made rates; we are incompetent to tell you whether these rates are fair or not; we don't know.

Q. I will take it that whatever the action of this Insurance Exchange is, it is approved. Now, that is a combination of companies to maintain rates; now, apparently the only competition which the admitted companies have is the competition where a man says, I will go outside of the city and get my insurance; now, when you come to tax the broker, so the business men who have got insurance of that kind in the city can't get it — you appreciate what was said in the last session of the Legislature by the self same brokers about their being admitted and taxed, that the department was playing into the hands of the Insurance Trust, don't you? A. I wasn't up there.

Q. You are acquainted with the point which these brokers took

up? A. That may be true, but I don't think that the department can afford from their strength and dignity to discriminate in favor of a class of insurance companies that do nothing for them, the public or the State.

Q. Let me ask you this. If you were here this morning you heard the Chairman ask one witness what consideration there was that could move to the companies because the State could regulate; if the States so regulated them, what in addition could the States give to the companies in return for such a regulation; we haven't got an answer to that? A. I wasn't here this morning.

Q. The companies want to continue in combination? A. Yes.

Q. They say it is an all-right thing. It is a good thing, and apparently the brokers say that also. A. I don't know anything about the rates.

Q. Leave out the rates. We have a situation confronting the Committee here where apparently on the insurance side, everybody but the assured agreed upon as essential; now, they also say that regulation is dangerous, that you might regulate the machine into dissolution and have a State of anti-compact; now, isn't it fair as a proposition to say to the companies coming here, and seeking this market, and seeking this license of the State, if you want to come into combination, the State is still going to allow the individuals to go outside of the State for insurance if they want to go there at their risk? A. In other words, you mean, permit them to come in not under the insurance department?

Q. No; the point is apparently, the insurance interests are standing here say, don't touch us; now you are complaining from the point of view of the companies, and how they shall be protected against this underground insurance: now, if they want to come into the State of New York, and combine; if they can organize in the State of New York, and if the State should let them combine, because they suffer from a little competition on the outside? A. Well, I don't know what the Insurance Department is for if it is going to encourage companies to write this business and not come in.

Q. You conceded a moment ago that the insurer had the right to go outside? A. Himself, yes.

Q. And if he has that right, he has the right to send a person

outside to place his insurance? A. No, I don't concede that, provided the State passed the proper laws.

Chairman MERRITT: By a second person?

The WITNESS: Yes. It seems to me that these insurance policies are very important contracts, and I think we are approaching a time when those contracts must be negotiated, the big ones, by people that are under the control of the State, to the end that the State may say that the citizens of this State are not imposed upon. You want to understand that there have been Lloyds policies printed, in this State, under this latitude we have had, where the policy — where there was nothing true in fact in the whole contract.

The CHAIRMAN: Nothing real except the premium?

The WITNESS: Which the broker took and put in his pocket. Furthermore we had a case a little while ago where one of these same Lloyds came in, not under any supervision of the department; and a man up in Grand street had a loft, and there was absolutely nothing there. They had an office with a little girl, down town somewhere, but they couldn't pay anything. Now, it seems to me that the great principle of insurance should be protected by capital and assets, but that capital and assets should be investigated and regulated, that we should not have the condition of where a man burns out, and there is nothing to pay him; where there is no assets, no office, no attorney to serve notice upon; it is a great disaster. It seems to me the citizens of our State are entitled, if we are going to have an insurance department to the greatest protection.

Now, last year, when this question came up, it became very much involved and a matter of public interest; but it was not supported — I think Mr. Hurrell will remember what Mr. —— said before the Insurance Department last year, taking the ground that they would license brokers, but they didn't have the appropriation and couldn't afford it.

Q. That was one of the grounds? A. Yes, that was one of the grounds, and it required getting a bureau; it is quite a protection if the Insurance Department grants licenses to these brokers, to see to it that if a broker has misappropriated premiums, or permitted any malfeasance, he is thrown out; it is quite a strong

protection to the community. If the department is in a position to call the broker down, and hold him to strict accountability for the qualification of their licenses. I admit there is quite a lot of this going on. But it seems to me that it practically comes down not so much to a question of competition between unauthorized, well-guided companies, strong, solid, reputable financial institutions, as it becomes a question of principle.

And furthermore the licensing of companies to come into this State with freedom, if they were here — my experience in the business is that automatically competitive relations between insurance companies under complicated conditions of applications, the changed conditions, will automatically operate in the long run, and I think possibly the public will get the big end of the stick.

Q. You spoke a moment ago about Lloyds; do you believe that the public would be benefited if the law as to Lloyds was amended so as to permit the organization or admission of new Lloyds? A. Well, I don't know about that.

Q. Under restrictions? A. The only trouble is it is a matter that has been abused very much. You know at one time they did have unbridled license to organize Lloyds in this State, and we had an enormous crop of Lloyds, everybody had a Lloyds, by giving freedom that way; then they all busted, almost all of them, and entailed a large loss. I guess the courts are filled with suits now. You see the trouble with Lloyds is it is a partnership. It is well known it is hard enough to get along with one partner, but when you have a hundred partners there are the internal complications. I would say if these Lloyds organizations were made to organize with capital and surplus funds and assets it would be all right.

Q. Do you think the evil could be gotten at by opening the door under certain restrictions to new Lloyds, say with a certain minimum about of capital backing the underwriter, or set of underwriters? A. Well, if it was all under the supervision of the Department, I think there is a great deal to be said both ways.

Q. I want to ask you another thing about the writing of this business. Do you think the writing of business in unauthorized Lloyds and unauthorized companies has grown to such large proportions as you say you believe it had, is because the brokers who are

writing that class of insurance for reputable business men take care of their clients, after they have put them into this kind of insurance? A. I think that is so to a degree; but I think, on the other hand, that the evil has grown to such an extent that Lloyds are so lax, that they appoint correspondents, and other representatives here, without regard to responsibility. But it looks to me as if we would see the time when people would hold Lloyds commissions here, under certain lax conditions, the same way as in Havana; every man on the corner sold lottery tickets. I don't know but what Lloyds policies will come out through a nickel in the slot machine after a while.

Q. It is unfortunate, is it not, that there are three or four large brokerage firms in this city that do a large business in representing insurers abroad, in seeking these contracts? A. Well, I could not speak of my own personal knowledge. It is said that could be so.

Q. You believe it to be so, do you not, with two or three large firms here? A. I think there are certain firms that specialize in that class of business.

Q. And they have offices in various other cities also? A. Yes, I think that is so.

Q. To be sure we get you right: Your idea is a statute should be passed licensing the broker, and then supervising him, so that if he put any business in an unauthorized Lloyds, or unauthorized company, he would be penalized by losing his license, or losing the right to do business, to do an insurance business in this State? A. As I stated, under the supervision of the Department.

Q. Under a suitable law? A. Yes; that seems to be a reasonable proposition; the whole proposition would be for the encouragement of reputable and responsible agents and brokers in the business; it could be done just the same as it is done in regulating the banks.

Q. I think that is all, Mr. Benedict, unless you have anything to add.

Chairman MERRITT: I would like to ask one or two questions. I think Mr. Benedict said what he thought about the condition of free competition and no compact allowed, didn't he?

Mr. HURRELL: Only very incidentally.

By Chairman MERRITT:

Q. Have you been through these rate wars? A. Yes; several of them.

Q. What do you think about the conditions, as far as the public is concerned, of such conditions as existed then, or the condition that exists now, by reason of the Exchange, as to the responsibility of the insurance and the size of the premiums and general commissions that obtain? A. Well, leaving out — just taking it on the methods of business, I always felt that during these rate wars that conditions were very unsatisfactory and very uncertain. I always felt that the adjustments of losses were very much more strenuous. They felt as though the assured, having got the last dollar for the premium, that they were going to pay the last dollar for the loss.

Q. That is, they took more advantage of those conditions in the policy, which nobody understands except the companies, and which they do not invoke unless there is moral hazard? A. Certainly. We have practically 20 or 30 adjusters over there, and now have only two. The loss bureau maintained by the Exchange is certainly a very honest and well-administered bureau, so far as the adjusting and settling of these claims goes within my experience. Now, of course, I am representing the assured, and it is my business to advocate a condition of affairs where I can get the lowest cost of insurance for the customers, provided we take into consideration the stability of the policies.

Q. Yes. A. And you take large insurers, under a rate war, it was a very unsatisfactory condition, because the rate was constantly bid up. After you had placed say $100,000 at a certain rate, then you could not place any more, and then would have to place the next $100,000 at another rate, and by the time you do that the first $100,000 went into other policies, and wanted the next rate, and so on, and it became a sliding scale, and very unsatisfactory, and consequently there were so many cancellations of policies, after these people had issued policies under competitive features, that they changed their minds and wanted to cancel, and it was altogether very chaotic and very unbusinesslike, the whole proposition.

Q. Then you believe that the compact and agreement system on rates is a very good thing for everybody? A. As a system, it seems to me that some honest, intelligent, collaboration and cooperation

among the insurance companies is absolutely necessary, because we have risks here where perhaps one hundred companies are in interest. Well, now, if they are going to operate on their own individual advantage, you can never tell where you are. After you consent to one thing, another change will be made, and the assured is put in a very complicated position, because he does not know what he wants.

Q. It is not denied, I suppose, that the combination is essentially in violation of the theory that people must not combine in restraint of trade, but everybody that has testified in connection with the business, unless it be the assured, and you represent them in a particular way, more than anybody else does, seems to agree that it is a necessary and proper condition to exist, and beneficial. A. Well, without committing myself on the part of it which is without my experience, and that is the question of the equity of the rates, I am in favor of the lowest rates we can get.

Q. Assuming it is a good thing for the insured and for the stability of the companies, and all this argument, why, if it is a good thing, ought we not to compel it; that is, if we license companies to do business in this State, compel them to join some recognized body and become a party to a compact? A. Well, I think there is a great deal to be said in favor of that, Mr. Merritt, for the reason that otherwise they are preying on an innocent public. You see, the trouble about insurance — insurance is a very easy bunco game, if anybody wants to make it so.

Q. I know a man who won't insure, because he says that he contract is absurd, that there are conditions in it which he knows everybody violates, and I said to him, "Don't you think they would pay your loss?" He is a highly-respectable and responsible citizen, and he says, "Yes, I think they would probably pay my loss, but I won't sign a contract because they have a lot of stuff in it that has been put in these forms. A. I have been in business 25 or 30 years, and I will have to testify, and I am glad to be able to testify to the honorable efforts of the insurance companies to settle their losses pretty decently.

Q. He was not questioning their good faith. He simply said they put clauses in there that did not apply to other people and myself. But that is the way some people's minds work. A. Oh,

yes, but don't you think there are some people who are kickers, anyway?

Q. This man is? A. And they are against the game, it doesn't make any difference what it is.

Q. That is true. You hit the point on my friend. A. I must say, in looking in the conduct of other classes of business, it seems to me that you will find in this business as high an order of ability, and as much honesty and intelligence, as you will in almost any other class.

Q. You will find mugwumps in business as well as in politics? A. Oh, yes. But I cannot refrain from expressing one opinion, and that is this: That all these people, everybody wants the rate as low as possible, and yet it would be very difficult to get that public and these merchants to invest in insurance stocks. It is almost impossible to get up a new company. The only people to take stock in these companies, new ones, are not the insurance men. There are many of them with plenty of money seeking investment. The only people who make these investments are the innocent public that do not know anything about it.

Q. I have asked several witnesses if they could think of anything which the State might give to the insurance business in the way of privilege or franchise to write, or anything of that sort, in consideration of regulation of rates, or regulation — yes, regulation of rates by the State, and I would like to ask you whether there is anything occurs to you that the State might do for the business as a whole. A. For the insurance companies?

Q. Yes, and for the insurance business, in consideration of regulation. Now, as a broker, we could do something. We could protect them. A. Control them.

Q. Control them and protect them to a certain extent by protecting them in the business. They would be protected to a degree from the man who did not want to carry on the business according to the highest standards of the insurance brokerage business. There would be a remedy against it. His license might be taken away, and it would be notice to everybody that he was not a proper person to deal with. But for the proposition as a whole, a lot of people think we ought to regulate the fire insurance rate. Now, that may be well founded, or it may not. It occurs to me that you have got

to hang any proposition of that kind on some reciprocal condition. You must do something for the insurance business if you undertake to regulate. A public service corporation has certain rights given it, and one thing we give the public service corporation is the privilege that it shall not be competed with as long as it renders good service at fair rates. A. I think that is an excellent point.

Q. Now, can we get at this thing in such a way as to do something reciprocally as between the insurance proposition as a whole and the State as a municipality? Otherwise I do not see that we have got anything to do excepting to analyze the situation as clearly as counsel can analyze it, and say, that is what we find, and there you are. A. Of course, you understand that, as a matter of fact, perhaps, almost every insurer thinks his rate is too high, and the same as in everything that we buy. We always think it is too high, and consequently, it has seemed to me, not desiring to be diffuse, but an inquiry of this kind invites an exploitation of the self-interests of a great many people who want to put up the situation from their special and selfish point of view, and it has occurred to me, as I have listened to some testimony here, that the criticisms of the Exchange, where different brokers have spoke about the difficulty of getting satisfaction, has generally been in a case where they wanted the Exchange to deviate from a well-recognized, established rule, as an exception in their own particular favor.

Q. Do something for them that they would not be expected to do for the majority? A. Yes, and generally something that would enable them to take away a risk from some other broker who was not pounding them, and would not be able to get that thing through. Now, I think it may be admitted that no organization like the Board of Underwriters, or Fire Insurance Exchange, could, in human nature, be perfect. It is an impossibility to get organizations of that kind which have been formed from collated data and experience in business the better form is doubtful to see as a general proposition that they could, and of course the assured are entitled to the lowest rates they could get. They have got a lot of brokers here that have squeezed these ——

Q. (Interrupting) They are not entitled to a rate that is less than it is worth? A. No, they are not, and then the only trouble is there is no human mind, short of God Almighty, that can tell what a rate is. That is true.

Q. Well, that is about what we have concluded, and in this striving for perfection, it is a question whether we can assist in any way? A. You could. You might be able to assist if they were traveling along the lines of definite and exact data, but here we were swimming along before the San Francisco fire, where everybody thought this business was a fat thing. Companies were making money. Stockholders were delighted. We woke up one morning, and some of our greatest insurance companies — here was the Hartford, absolutely busted, and the stockholders were out the capital they had put up, and had to put up new capital in it on account of the value of the business, and they did so, on account of the value of the plant, and the Nassau and Hartford and Phoenix were very panicky, and if the department had examined these companies immediately and insisted upon their exhibiting their financial condition, there would have been receivers appointed galore. The German of Freeport, one of the most prominent western companies, paying the largest dividends of any company, except the Glens Falls, went practically completely out of business.

Q. Yes, figures show that the Glens Falls have not made much profit on their underwritings. A. A gentleman called my attention to some facts, and he stated on very authentic authority that the directors of our fire insurance companies are very small stockholders, only stock enough usually to qualify. The stock is usually held by being distributed through the public, on the part of people who are attracted by a good dividend one year, and hope it will continue. And, furthermore ——

Q. (Interrupting) A good promoter never owns much stock? A. No. You very rarely see — this is somewhat advisory, and I assure you, gentlemen, that I am only speaking because I have thought on this subject, and I have got nothing to gain, but you never see large beneficiaries, men of large means, if you have ever noticed, when they probate their wills, you never see listed among their securities insurance companies, fire insurance stocks.

Q. Among their assets? A. Yes. Mr Morgan — there has been a great effort to get Mr. Morgan. It was talked of greatly to have him combine these companies and get them together. He has always been very shy of fire insurance stocks.

Q. They did not look good? A. They did not look good, they looked good when they were far away, but otherwise not.

Q. Isn't that a reason why there ought to be an absolute limit on the amount that can be written on the basis of capital stock and surplus as a guarantee, anyway? A. Before I come to that point, I want to go a little further, and say that fire insurance stocks are the poorest collateral in this market. You cannot borrow any money on them. That is probably not generally understood by people; that our trust companies and banks do not — I once went with some Home stock to get some money from the Morton Trust Company, and they said, We will never loan on any stock, and yet there was the best stock that was in the market.

By Mr. HURRELL:

Q. That is, on any fire insurance stock? A. Fire insurance stock. If you could eliminate or overcome the hazard of a conflagration, I think you gentlemen could get in, and you could get these rates down to the quick.

By Chairman MERRITT:

Q. We could not eliminate the chance of a conflagration, but it might be possible to eliminate the change of the failure of the company by reason of the conflagration? A. Yes. But before we come to that, gentlemen, don't you think that insurance companies engaged in such a very hazardous business as this is are entitled to large profits in the prosperous years in order to get ready for a rainy day?

Q. Well, they have to keep them when they can get them. A. I would rather have them solid and strong, and I think that inasmuch as the fire insurance ——

By Mr. HURRELL:

Q. (Interrupting) Now, you are talking outside of this question about there being over-insurance in the congested valued districts. A. Now, let us come down to that. I would like to speak about that.

Q. I mean, was that in your answer, which took the form of a question? A. I have not touched on that point yet.

Q. I was wondering whether the proposition you were illustrat-

ing was this: Were not the companies entitled to large profits by reason of gambling really in the congested valued districts. I was asking you whether you had the gambling element in there, or whether you were talking about a company doing what you might term legitimate underwriting? A. No, I think they are entitled to large profits on account of the unexpected in this business. And, of course, it is a remote possibility, when you think you have protected everything, and that they are not gambling, and that they are in the realms of prudent underwriting, but there is still the possibility that the unexpected may happen, and everything go up.

Q. That is, you say because their capital is liable to be wiped out, they ought to be able to earn a little bit more on that than if they had invested in something that would not be wiped out all of a sudden.

Senator ALLEN: That would be if their assets carried large profits rather than being paid out in dividends. The Glens Falls company paid out over a thousand per cent in dividends.

Mr. HURRELL: On their original capital?

The WITNESS: An average of 7 per cent. I understand.

Senator ALLEN: No; over a thousand per cent on their capital. They paid out $2,120,000 since 1864. That is an average of over 25 per cent a year on capital.

The WITNESS: I understood from Mr. Whitney's figures that their underwriting average has averaged 7 per cent a year.

Mr. HURRELL: The figures that the actuary worked out on the Glens Falls Company, was taken from the time of the organization, and figured the actual earnings, the proprietary interest showed on capital and surplus, which is simply undivided profits at some period of the company's existence, and it showed that the average rate through the years, the entire earning rate, was 7 1-2 per cent.

The WITNESS: Well, we come back to the principle, why don't capital seek the investment more than it does?

Chairman MERRITT: Well, that is the question.

Senator ALLEN: Well, if they had paid a low rate of dividend; if they had paid six or seven per cent, and allowed this 115 per cent, as in the case of the Glens Falls Insurance Company, to go into their surplus, then there would not be any danger of the company being wiped out, and capital would seek that investment, but

you cannot pay it out in enormous dividends and still have the stock a safe investment.

The WITNESS: I think there is something in favor of that.

Mr. HURRELL: They have allowed it to accumulate in that company some time or other, so they have their surplus up somewheres in excess of two million dollars, and that is just as much capital as the capital they put in originally, upon which they now pay dividends.

By Chairman MERRITT:

Q. I suppose the history of that company is that for a great many years they did not have a very large surplus account, and it was run something like loan associations are, where they get the benefit of clever men with practically no compensation, and in that way they have their charges for officers and one thing and another greatly diminished. Now, don't you find, or do you find, as the other witnesses have, that the strongest companies are the most conservative in their placing of risks? A. Yes, sir, we do.

Q. Then, as I suggested to one of the last witnesses on the stand, if that is the practice with the most conservative companies, and the strongest ones, why ought we not, in some way, if we can, to enforce it on all companies? A. You mean in regard to congested localities?

Q. Yes. In regard to congested localities. What would you say about that? A. I think you would be plunged into chaos. I do not think you would be able to do it.

Q. You do not think it would take care of itself, as the witness —— A. Well, I will tell you. I think there are two points on that. One is that you would be depriving the people in these congested districts of their insurance where they might not be able to get it, and it would appear that you should not deprive them of the insurance entirely if our companies are willing to carry it. Now, there is a great deal to be said ——

Q. (Interrupting) Well, it is carried by the bigger companies? A. Well, not altogether.

Q. The overplus? A. My own impression — I was interested here in what you referred to about the Continental. Of course, they are very shy on congested districts. Well, of course, insurance

companies they want to insure. Now, you take the Liverpool and London and Globe. If the Liverpool and London and Globe did not give what they carry in that district — they have a limited liability of stockholders, anyhow, and I should say people in that district are very fortunate if they get that policy for any amount the company were willing to write; and furthermore, if they did not have that insurance, what insurance are they going to have?

Of course, on this conflagration hazard — and I want to tell you, gentlemen, I am not an underwriter, I am only talking common sense in an advisory way, as a man who has been in the insurance business and has observed certain things, and I do not claim to be over-wise and do not want to be considered over-smart about it, but there are certain things that have occurred to me. Of course, the companies have learned a great deal from these conflagrations, and in New York there has been a very great effort to break up the — conflagration hazard, and the conflagration hazard has been very much eliminated and broken up by the erection of fireproof buildings, breaking up congested sections, and by the intersection of these fire-proof buildings in these various neighborhoods, which would tend to stop fires. Of course, Mr. Tanenbaum has put up a most alarming condition of affairs, in which everything may go to hell in a night, and of course it may, but it seemed to me that we do not want to be alarmists to such an extent as that, and that the insurance companies have gone along pretty well with these conflagration hazards, Boston, San Francisco, and all. It is true they have had to put up extra capital. There have been a few of them failed, but when you come down to the general benefits which the companies have enjoyed, which they might not have otherwise, taking it all through an average, I think it has been a pretty good thing, and these companies may pretty safely be entrusted, inasmuch as they are responsible to their stockholders, officers, many of them owning considerable of the stock, it seems to me they may be entrusted to use pretty good care that their losses won't be any heavier than is possible. Some of them may gamble more than others. Some merchants gamble more than others. Some life insurance companies gamble more than others. That is in human nature. Some people are more conservative, and some are not. But I do not think that the evil of allowing these companies to regu-

late their own underwriting is as great as it would be to deprive our own citizens in congested locations of the privilege of insurance just when they want it. Insurance is very necessary. A great many people cannot do business without insurance. They have not got credit enough.

By Chairman MERRITT:

Q. The tendency of all this regulating spirit, of course, is pretty well recognized, and in some places you will find a strong advocacy of State insurance, of which there is no possibility in this country, I take it, anyway. It is a difficult thing to touch any of these things. It is all interlaced and interlocked so much. A. Yes. There are a great many complex features to see. On the other side they have free trade. We do not have free trade. We have protection. And in this State you protect your policyholders, and you protect your companies that pay your taxes, and are under your supervision, and I think it is a very wise thing that banks and insurance companies have to keep their assets so intact, and they have to do business being watched, etc. I think the Insurance Department is invaluable to the insurance companies of this State. Consequently, I think that the edict should be published; some in this State, pay the taxes, conform to our laws, whether you are Lloyds or what you are; otherwise, stay out.

Q. Treat them all alike? A. That is right. The contract is secondary only, it seems to me, to the assets of the insurance companies, which is responsible, and the acts of the intermediary. They have a very important bearing on the contract, and I had felt that the department, if they regulated, if they granted this valuable franchise to insurance brokers, permitting them to transact this business, that they had a right to govern, and that they had a right to say to those brokers, You transact the class of business and the kind of business that is permitted under the laws of this State.

Q. You are speaking, of course, from the standpoint of the city of New York? A. City of New York.

Q. You could not apply that generally through the State, for the brokerage system, because the agents in the small places are the only people that really transact any insurance business? A. You mean up the State?

Q. Up the State. They are brokers as well as agents. A. Well, those agents up the State, they are absolutely dependent. They make a living entirely out of the companies admitted to do business in the State, and those brokers up the State feel that it is a great injustice that any other broker should go up there and take some of their large risks away, and put them over in London Lloyds, and the first thing they know the whole thing has vanished, and it does not seem fair, exactly. It does not seem right.

Mr. HURRELL: That is all, Mr. Benedict.

The WITNESS: I hope I have not interrupted too much, or said too much.

Vice-Chairman BROUGH: I want to ask you this, you seem to have gone pretty thoroughly into the whole question: Why is it necessary that this business should be put to such enormous expense account for brokerage all the time? Why should brokers be necessary in every instance in getting insurance? A. Well, the general class of business here in this city requires a number of companies, and it requires concerted action on the part of these companies, and it has been found that the brokers are the attorneys of the assured. If the assured is brought in contact with all these various officers in negotiating these contracts, they are not actuated so much to give them a contract which is the best contract they could get, as to give them some stereotyped contract the company might issue.

Q. I know, but why should not a person who wants insurance go to the company and get the insurance, and save the brokerage? A. They might, if they want to get it, but at the same time you will find there is a sort of philanthropic factor you have in this, that people do not insure. They forget to insure. They do not carry enough insurance, and consequently here the brokers in the insurance business — you take it it is in fire insurance as it is in life insurance. How many people would insure their lives if they were not solicited? Very few. That same argument might exist on these people going down to the insurance companies and insuring their lives. We all know comparatively few people would do it, and it is so in fire insurance, and yet it is a necessary thing, for these people frequently cannot go without insurance. Where they have burned up, their fortunes and their assets have gone.

Q. But why put a man that can go and wants to go and get in-

surance —— A. (Interrupting) He don't want to go. He would rather have somebody look after it for him.

Q. That is not always the fact, and in insurance offices, why, if a stenographer or office boy, or anybody else brings in a risk, there is some percentage goes to him all the time, as long as a policy is in force? A. I think, myself, that would bring up the question as to qualification of brokers under this new regime we are speaking about.

Q. A man brings in some business to the broker's office, and he dies, and I know of one case where his widow was getting a rake-off? A. Well, you know that is so in life insurance, and I guess it is so with any salesman in a mercantile establishment.

Q. I wanted to know why that is so? A. It must be so. You know people are pensioned, and then people who have a large sales account in a drygoods store, they have emoluments that continue afterwards; but still, you take it in fire insurance, our insurance is from year to year, and there is no commitment at all. In life insurance it is continual renewal, but you know in fire insurance it may go from one person to another.

Chairman MERRITT: You cannot supply the principle of direct primaries to life insurance.

Vice-Chairman BROUGH: Why not?

Chairman MERRITT: Because you cannot apply it anywhere.

Vice-Chairman BROUGH: Why can't you go down and buy insurance as anything else?

The WITNESS: You can do it.

Chairman MERRITT: But you cannot get the commission.

The WITNESS: In the first place, you would forget it. In the second place, you would not have somebody looking after your interest, as to the last cent in the rate posted in the schedule, or on the market, or whatever it may be, nor could you have somebody to get you the most comprehensive description that is possible. It don't cost any more to get perfect insurance than imperfect, and a great many criticisms of losses in adjustment have been brought about by the fact that incompetent people negotiated these contracts, and when the loss comes, the contract is imperfectly made out, and I think an insurance broker is somewhat in the same posi-

tion as a lawyer, and I think Mr. Hurrell will agree with me that lawyers are very necessary.

Mr. HURRELL: Yes.

Chairman MERRITT: You know the saying about a lawyer who draws his own will?

Vice-Chairman BROUGH: But they say a man draws his own because he does not have to pay for it.

Chairman MERRITT: And they say that every man who is his own lawyer, has a fool for his client.

The Committee will stand adjourned until ten o'clock to-morrow morning.

Adjourned to Wednesday, December 21st, 1910, at ten o'clock A. M.

THIRTY-SIXTH PUBLIC SESSION OF THE LEGISLATIVE INVESTIGATING COMMITTEE.

ALDERMANIC CHAMBER, CITY HALL.

NEW YORK, *December* 21st, 1910 — 10 A. M.

Present — HON. EDWIN A. MERRITT, JR., *Chairman.*
HON. VICTOR M. ALLEN.
HON. ROBERT F. WAGNER.
HON. FRANK E. YOUNG.
HON. WILLIAM W. COLNE.
HON. JAMES A. FOLEY.

HON. M. LINN BRUCE, *Counsel.*
ALFRED HURRELL, ESQ., *Assistant Counsel.*

Chairman MERRITT: The Committe will now be in order.

JOHN G. WICKSER, called as a witness, being duly sworn, testified as follows:

By Judge BRUCE:

Q. Where do you reside, Mr. Wickser? A. Buffalo.

Q. Are you connected with the insurance business in Buffalo? A. Yes, sir.

Q. What companies are you connected with? A. I am president of the Buffalo German Insurance Company.

Q. Are you connected with any other company? A. I am a director of the Buffalo Commercial Insurance Company.

Q. How long has the Buffalo German Insurance Company been in business? A. If I remember right, about forty-four years.

Q. How long have you been president of it? A. Since 1907.

Q. Prior to that time were you identified with its organization? A. Yes, sir; I was a director.

Q. Had you been a director for a number of years? A. Yes, sir.

Q. How long have you been a director of the Buffalo Commercial? A. Since 1896.

Q. How large a company is the Buffalo German? A. The gross assets?

Q. Yes.

Chairman MERRITT: The stock.

A. The stock is $200,000.

By Chairman MERRITT:

Q. And the surplus? A. The surplus is about $1,598,000.

By Judge BRUCE:

Q. How much insurance have you at risk, approximately only? A. I would have to give that approximately; I do not watch those details except at intervals; I should say about $140,000,000.

Q. Scattered all over the United States? A. We are not in the South.

By Chairman MERRITT:

Q. In the statement of stock and surplus, do you include all your assets, all the assets of the company? A. Our gross assets include also the re-insurance fund.

Q. I mean that is not included? A. No, that is just the stock and the surplus.

By Judge BRUCE:

Q. Approximately about how large a company is the Buffalo Commercial? A. I think it has $200,000 capital and about $170,000 net surplus, but in both of those companies we are building up what we call a conflagration fund, and the conflagration fund in the German now is $50,000, and in the Commercial is $20,000, and, of course, that is really a surplus, you know.

By Chairman MERRITT:

Q. Just simply segregated insurance fund? A. Yes, sir.

By Judge BRUCE:

Q. How long have you been at work in building up those conflagration funds? A. We had a fund of $50,000 that we used in the 'Frisco fire, but the present fund is now three years old.

By Chairman MERRITT:

Q. How large do you intend to make that; have you a definite idea as to where you can carry that? A. Yes. We have not any absolute rule on it, but our idea is to build that up to, say, quarter of a million.

By Judge BRUCE:

Q. Is the Buffalo German a member of the Eastern Union? A. No, sir.

Q. Or the Western Union? A. No, sir.

Q You are non-union companies so far as commissions go? A. Yes, sir.

Q. Is your company allied with any organization which is a rate-making body, or represented in any such organization? A. Only through its agents, except in Buffalo; one of our officers is a member of the board individually.

Q. Is your company a member of the New York Fire Insurance Exchange? A. Our agents are.

Q And your agents, I suppose, are also members of the State Association that has its headquarters at Syracuse? A. The local agents?

Q. Yes. A. I suppose so. We do not keep any track of that, we are not interested; some are and some are not.

Q. How are the rates made in Buffalo, by what body? A. By the board.

Q. That board is composed of whom? A. Local agents.

Q. And your agents are represented in that board? A. One of our officers is an individual member of that board.

Q. Coming back to the question of commission; it has been the policy of your company not to ally itself with any of the Unions which regulate commissions? A. No, sir.

Q. And why? A. Well, as a matter of business policy we have preferred to go along by ourselves and do as we please.

Q. What is the rate of commissions usually paid by your company as compared with the rate paid by the Union companies, that is, the companies belonging to the Eastern and Western Unions? A. Well, in the Western Union our general commission is twenty and twenty-five.

Q. In the West, you mean? A. Yes, in the West, that is, excepting what is called excepted cities, and the Western Union's commission is, I think, fifteen, twenty and twenty-five.

Q. In this State and neighboring territory what are the rates? A. About that, except in excepted cities.

Q. And do you pay an additional premium for preferred business? A. Well, we pay the twenty-five you know for the preferred, the same as they all do.

Q. What is the ration of your expenses to gross income, approximately? A. I would have to refer to the records; I think it is about forty-two.

Q. Now, the testimony here given by the officers of the various companies have varied that expense from thirty-eight and one half to forty; don't you think that is a pretty large expense ratio to gross income? A. Yes, sir, I do.

Q. Have you any suggestions, Mr. Wickser, which you could make to the committee by which this expense ratio could be reduced? A. Not unless the legislature saw fit to limit commissions, and possibly the companies cut down their other expenses of home office management, and taxation, and all those things enter into that.

Q. That is a matter of eternal economy that the companies would have to address themselves to? A. Yes, sir.

Q. That is just the point I wanted to bring out, this question of limiting commissions by law, and I will ask you if you will give your views on that to the committee? A. Well, I think, of course, it would be a good thing if companies were limited to a maximum commission. I do not think you could limit them to different

commissions so well, you know, because different companies have different ways of doing business, different business is sometimes worth different commissions, but there possibly could be a maximum commission limited similar to what it is in life, but that ought to go, hand in hand, in my judgment, with an anti-rebate law.

By Chairman MERRITT:

Q. As there is in life? A. Yes, because the trouble with the commission business now is that in a great many cases certain people manage to get part of the commission from the broker or the agent, and consequently the agents and brokers do not always get this large commission for their personal use, but they divide it.

Q. If that was pretty general it would work out to show that the premiums were too high? A. Well, of course, the premiums are too high, on account of two things, you know, one is the fire loss ratio, and the other is the expense ratio, because those two items, as a rule, in a period of say twenty years business will almost eat up the total premium receipts.

Q. I would like to ask you a question, it is not along this line, but one that occurred to me several times; we have not inquired closely as to the cost of operation depending upon the expense of salaries of officers and wages paid to men in the home office and salary — I want to ask you simply — you are a man of considerable wide experience in business affairs, — whether in your judgment the rate of salaries generally in the insurance companies are about what would be expected in ordinary commercial organizations having about the same amount of capital and assets? A. Yes, I would say that it was about.

Q. That is, you would expect a manufacturing plant involving as much real value as an insurance company to have about the same payroll expense for officers, etc.? A. Ordinarily, yes, the ordinary payroll expense.

Q. That is not, in other words, a practice of over-salaried officers —— A. Not as a rule.

Q. So far as your knowledge goes generally? A. Of course, if you will permit me, Mr. Chairman, I will say that all these companies have large assets to invest, and in charging up an ex-

pense account as a rule those figures against premium account you see, if that was spread as an average over the total assets of the concern, it is worth some money to officials to handle properly large assets.

By Judge BRUCE:

Q. Would you deem it wise for the State to put upon the statute books a law limiting all commissions to fifteen per cent, also prohibiting rebates? A. No, I do not think that would be enough.

Q. You think it should be in excess of fifteen per cent? A. I think the maximum should be larger than that.

Q. Why? A. Because there are different classes of business, the hazardous business and the non-protected business, congested district business in certain lines is being done at ten and fifteen now, in some cases the broker. You see, the broker has got to have his living as well as the company.

Q. These high commissions are usually paid for the preferred business, are they not? A. The commission is higher for the preferred, yes, sir.

Q. Why is the business preferred? A. Well, in the first place, as a matter of fact, it is not in the congested district; the conflagration hazard is very largely avoided, and the other is that it is a character of fixed buildings and things of that kind where the loss ratio is much less than it is on merchandise, that is affected you know more by a fire.

Q. Then, on the preferred isn't the premium too high? A. The premium now is very low on preferred business.

Q. If it is still preferred business, isn't the premium still too high? A. I should not think that it was. The premium in New York city on a dwelling, I believe the rate is twenty-five cents for three years.

Q. Take in Buffalo in a frame detached dwelling, what is the rate? A. Shingle roof, it is fifty cents for three years.

Q. What is it with a metal roof, or tile? A. We have very few, comparatively, possibly a so-called building of that kind would be about forty cents for three years.

Q. Now, isn't it a fact that the premium on such classes of

risks is much higher in proportion to the loss sustained than it is on what you call hazardous risks? A. Well, my personal judgment is no, but we have not any classification system so far as we are concerned that will give us those figures.

Q. I might state, Mr. Wickser, that one of the burdens of the complaints that have come to us is that this preferred business is bearing more than its proportionate share of the contribution to the loss sustained by the companies, and that it is preferred because the rates are too high in justice to the assured, and that consequently the companies look for that class of business, and that the owners of dwellings are bearing part of the loss that should be placed upon extra-hazardous or hazardous risks? A. I can only, of course, give our own personal experience; each company has got perhaps some method of their own experience which they properly retain, and our experience is that the loss ratio is the greatest on what we call stocks; that is to say, we suffer the most from stocks.

Q. Merchandise? A. Yes, sir.

Q. Well, what is your loss ratio in proportion to premium on these preferred risks, like dwellings in the city of Buffalo and elsewhere? A. Well, I haven't got those figures with me, Judge. I could send them to you.

Q. Well, now, I presume where there are rate-making bodies, and you are represented in those organizations, either directly or by agents, you, of course, adhere to the rates fixed by the rate-making body? A. Yes, sir.

Q. What do you do in States which have anti-compact laws? A. Why, those States, as a rule, have what is called the independent rating concerns which publish rates, instead of the board, you know.

Chairman MERRITT: It amounts to the same thing?

The WITNESS: Yes.

Q. You buy those rates? A. Yes, sir.

Q. As a rule, do you adhere to them, or enter into open competition on rate with other companies? A. As a rule, we adhere to them.

Q. Are there any States in which you carry on what is called a rate war? A. I have no recollection of any at the present.

Q. What are your views with relation to the policy of the government permitting an organization of companies for the purpose of fixing and maintaining rates? A. Well, I think the companies ought to be permitted in some form to maintain schedule rating; that is, based on a scientific basis, you know, that permits of taking a perfect building as a basis, and adding to or deducting from on account of the hazard or lack of hazard, it doesn't have, you know. And if that wasn't done,— why, of course, I don't imagine, that if the boards were abolished that the companies would actually turn to some other independent rating concern, which they wouldn't combine on, but they would probably individually maintain those rates, or practically maintain them.

Q. Well, don't you think, if the government permits such organizations to fix and maintain rates with reference to a commodity like insurance, which has become a necessity, that it also should, in some manner, reserve to itself the power to review or regulate those rates? A. Well, I think they ought to have the power to review, but I don't know very well if they can have the power of making rates.

Q. No, not in the first instance, allowing the compact itself to take the initiative, and make the rate, both the base rate and the schedule rate, but where the complaint is made by an insured, there should be some governmental agency to which he could appeal? A. I think the thing ought to be open to a close scrutiny; you know what I mean, that a man has the right, whatever form it would be deemed best. That could be a separate body in the State, or I suppose the insurance department could be provided with those powers in a branch.

Chairman MERRITT: Wouldn't you, however, provide, if you did that, that all companies doing business in the State should combine?

The WITNESS: Well, I sometimes think the companies should be obliged to.

Chairman MERRITT: Well, I won't say combine, but act in combination; that is quite a different thing.

The WITNESS: Well, I think that some kind of a basis should be either made mandatory, or allowed; not mandatory in the

sense of compelling them to except those figures, you know; but if they are going to have a schedule rating, based on what is called scientific rating, as near as we can get at it from what experience we have had, then they ought always to be based on that, and a man ought not to be discriminated against; and if he is, he ought to have the right to appeal somewhere.

Q. Would you think that that system of allowing the government to reserve the right of review was preferable to the anti-compact law? A. I think it would be if it could be worked out satisfactorily and kept free from politics.

Q. What has been the experience of your company in anti-compact States? A Well, while the legislation was on, of course, our experience was somewhat demoralizing; but after the matters had become settled, and independent rating concerns had published their rates, it practically settled back in the same condition.

Q. Have you in Buffalo a class known as brokers, like we have here in New York? A. Yes, sir.

Q. About how many brokers are there in the city of Buffalo? A. I could not tell you, Judge; I don't pay any attention to those details.

Q. Is most of the insurance brought to the companies by brokers, or does it come over the desk? A. The larger portion of it comes through brokers, or through regular employes of the office. It isn't as marked in Buffalo, quite, as it is in New York. Pretty much all the business in New York comes through brokers.

By Mr. HURRELL:

Q. You don't call the agency firms brokers? A. No, but we have men we call salaried men, who get a salary.

Q. From those agency firms? A. Yes, and from our companies. And this remuneration, as a rule, consists of a stated salary based on a contingency, you know what I mean, they get so much salary for so much premium they bring in, and on excess premiums they possibly get a commission.

By Judge BRUCE:

Q. They are really solicitors of the company as distinguished from brokers? A. Yes, sir.

Q. Now, a number of brokers who have appeared here have favored the licensing of brokers by the State, rather than the licensing by a local organization of the companies; have you given that any thought? A. Well, I have never been in favor of the State licensing a lot of men for the mere purpose of getting money out of them, but I think it is a good idea that all brokers should be licensed, so the State has got a record of the men engaged in that busines. Of course, I want to combine the anti-rebate with the proposition; because that, in my judgment, is one of the great sources of trouble to-day.

Chairman MERRITT: You would not expect that always to be observed, if it was the law?

The WITNESS: No.

Chairman MERRITT: But it would more likely be observed if it was law.

The WITNESS: It would be observed most of the time, and those who didn't observe it would be practically criminals. The average man looks at a law different from what he does at a board agreement, or anything else. For instance, if you will permit me, I will say, Ohio passed an anti-rebate law, I think last session. At any rate, I think it took effect the first of May. Now, as a rule, we never allow rebates, but once in a while, I mean from the agency point, not from the consumer, once in a while an agent would put up some kind of a story, and he would possibly charge back a few dollars; while we, as a whole, didn't allow rebates, we occasionally did allow one to slide through. But of course the moment that became a law, we issued orders that under no circumstances, in no shape or form, should anything be allowed in Ohio.

By Judge BRUCE:

Q. Do you think the broker should also be required to file a bond of indemnity? A. I wouldn't want to say he should, I don't know why he should, either.

Q. Well, in a large city, like New York, there have been many instances where brokers have failed to turn in the premiums to the company, to the very great detriment and loss to the insured?

A. Well, of course, that comes in the same category, as can in any business.

Chairman MERRITT: That is a matter for the district attorney.

The WITNESS: I think if you get too many of those things in you will spoil the effect of it.

Chairman MERRITT: Do you think an anti-rebate law, and the licensing of brokers, would operate to increase the cost of insurance to the insured.

The WITNESS: I think it would operate to decrease it.

Chairman MERRITT: You think it would?

The WITNESS: Why, if the broker is now getting twenty per cent, and he is getting a larger commission in some companies, not as a rule, but in many companies, why, of course, it makes the insurance cost more, don't it? In other words, he would be just as well off with ten, fifteen or twenty.

Chairman MERRITT: In other words, the rebates that are allowed are spread on the premiums, are they?

The WITNESS: Naturally, Mr. Chairman, they have to be figured it somewhere.

Chairman MERRITT: They have got to be paid?

The WITNESS: Yes.

Q. You stated a few moments ago that the companies with which you are identified are now accumulating a conflagration fund; was that brought about by their experience with the San Francisco fire? A. No, we started it before the 'Frisco disaster. We simply felt that our stockholders ought to be taught a lesson that there was a hazard to the business that they ordinarily did not figure on; and that while, of course, it is all surplus just the same ——

Chairman MERRITT: It is like figuring depreciation on a manufacturing plant; if you don't figure it, by and by you will be broke?

The WITNESS: Yes, sir. If a stockholder picks up a statement and sees the surplus is a million, and there is a conflagration fund of $100,000, he naturally says that is there for that purpose; then if a conflagration happens, and it is paid out, he doesn't object to it, he says that was what it was done for, whereas, if it was carried as an eleven hundred thousand dollar surplus, he

doesn't figure on that. Then, another thing about it, in my judgment companies should be forced to build up a conflagration fund of some kind and carry that, well, practically as a liability.

Chairman MERRITT: You should make them divide their surplus, so as to show a special fund for conflagration?

The WITNESS: Yes, and if they did not have it, I would make them build it up on a percentage basis on the business they did every year.

Q. Now, you recognize, that at least the large cities, like the city of New York, have really been divided by the engineers of the National Board of Underwriters into what is known as "Conflagration Districts;" a suggestion has been made to the committee, Mr. Wicksor, that the State should limit by law the amount of insurance which any company should be permitted to write in any one of these conflagration districts. We would like to have your views upon that proposition? A. Well, the trouble is, if you have a hard and fast rule on that, in the first place, it is a matter of dispute as to what should constitute these conflagration districts.

Q. The proposition is they should be defined by the Department of Insurance? A. And in time they will change the nature of them.

Q. Then, of course, the department would have the power, the limits would be restricted, to change the limits? A. You might give the Superintendent of Insurance discretionary power on that.

Q. It has appeared here from some of the evidence, that if you call the conflagration district, for instance, from Chambers street to 14th street, that many companies, some of the weaker ones, particularly, are writing in that district many times over their entire gross assets, and having them at risk? A. A great many of them are writing all their assets, at least, enough to break them if they should have a conflagration.

Chairman MERRITT: You do not regard that as a conservative practice, do you?

The WITNESS: I don't see very well — I don't see how the smaller companies could accept a locality that would be absolutely safe in a conflagration in those certain districts. For instance,

it would be limiting the amount of business to that extent, it would cut their volume away down.

Q. It would either cut their volume down, or they would be compelled to bring in more capitol to carry on the business, would they not? A. Well, it would be a matter that would require a great deal of earnest thought before that was made mandatory. Of course, these conditions change, you know. For instance, you have a drygoods district in New York to-day in a certain district; five or ten years from now it may materially change.

Q. But if those limits should be changed wouldn't that objection be obviated? A. I think if we went into the question of limits, Judge; you see it is pretty hard to do it. I think the Superintendent of Insurance might have some discretionary power to call upon the companies for a statement as to what amount at risk they have in certain districts, possibly every year, or every six months, if he saw fit; and if it was in excess of a certain sum, he might have authority to work it out, but it is pretty hard to draw a hard and fast line for all time.

Chairman MERRITT: It has been said it was difficult to get money invested in the insurance business in comparison with some other sorts of business; that has been said here by witnesses; is that your opinion?

The WITNESS: Well, the business is hazardous, Mr. Chairman. That is, it has the one feature of conflagration hazard; ordinarily, it is safe; but the conflagration hazard always enters into a consideration of the question, the wiping of your entire assets out over night.

Chairman MERRITT: If the statement made is true, with regard to the reluctance of capital to go into the business, you would assign as the principal reason of that, the uncertainty on the basis of the conflagration hazard?

The WITNESS: I think the balance of the business can be done with perfect safety; that is, in underwriting, safe underwriting.

Chairman MERRITT: Going back to what you said about the conflagration fund; which would, in fact, be only a matter of bookkeeping; and would, of course, if uniformly carried out, present to stockholders and to the public the fact that there was a special segregation of capital there, or money, for a certain pur-

pose; to what extent would you think it wise for a department, or the State, to attempt to regulate the bookkeeping methods of the companies?

The WITNESS: Well, they might state that the fund eventually should be a certain amount, and those companies that haven't got it would have to be permitted to build it up by a series of years, say, a percentage of their underwriting, say five per cent of their premium receipts per year should be put in that fund until it reaches the sum of fifty per cent of their re-insurance account; and that that money cannot be touched for even a fire loss, excepting where the fire loss ratio exceeds, say, sixty per cent, that is, the conflagration, because, ordinarily, a company can break even on sixty per cent fire loss, you see.

Chairman MERRITT: Yes.

The WITNESS: That is, under present conditions. I wouldn't want to give those figures as the absolutely best figures, proper figures.

Chairman MERRITT: They will answer for the purposes of illustration.

The WITNESS: Yes, for illustration. But you see if a company had a conflagration fund, and they had a conflagration, the Superintendent of Insurance, of course, could permit them to use all that money, or such portion of it as they needed. Now, in 'Frisco, the American companies, if I remember right, I think paid pretty close to $50,000,000, and, say, the foreign companies paid about the same. In other words, I think there was approximately about $100,000,000 paid by the insurance companies, and the business where modified on that surplus and profit account enabled them to do it, see?

Chairman MERRITT: The Public Service Law provides that the Commission may prescribe to all companies in their transactions, their forms and methods of bookkeeping; would it be a great hardship to the insurance companies if the department were authorized to do that, with regard to fire insurance, and require the companies to report their losses, or such further information as they might see fit to ask, according to some department standard, not necessarily the standard of the companies; do you think it would increase the burden and hardship?

The WITNESS: Well, to answer that, Mr. Chairman, the Superintendent of Insurance now calls on the companies for certain forms of reports, in those prescribed forms, once in three months, and has the right to call any time he wants. Personally, we would not consider it any hardship to our company; but I wouldn't want to say for all the companies, because our company is so favorably situated that they could comply with almost anything, you know, that might possibly be required. Now, we have a surplus of $1,600,000, and if we had to set aside $400,000 it would not make any difference. We have got it, you know. But a great many companies, who are smaller and younger, and are not in that position, they could not comply. And if you drove them out of business, you may cause the public to pay more for their insurance, because there would be less companies to insure this great amount of insurable value in congested districts.

Q. Well, it has occurred to the Committee that there was some considerable difference of opinion among the companies as to classification and various standard things connected with the business, and the question was whether the action of the State, through the department could be such as to tend to uniformity all the way through. There seems to be one of the things about rate making that from the experience of different companies they have different ideas of the various hazards. Yet, in the long run, there must be substantial agreement. Any rate-making system, by co-operation or by any individual or by the State ought to be the result of the greatest amount of experience or knowledge that could be had, and whether the State could get in its own records the mass of information that would be of real service, there is not any use of doing it if it is simply going to be the collection of strange beetles or stamps or coins, or something of that kind, but if it would really tend in the long run to clear up that somewhat mysterious —— A. It would help clear it up.

Q. Would it be worth trying? A. Well, you mean classification?

Q. Yes. A. Why, of course, a good classification system in the State of New York, and you might say in the United States, would be very good if all States were working on the same plan, you know, so that the country at large could get the benefit

of those figures, so in course of time it would aid a great deal. But there is always an uncertain feature connected with the insurance business. You know what I mean. The happening of the unexpected.

Q. Something not heretofore considered? A. Yes. And we must charge our experience, in Frisco particularly to New York. What I mean is we have got to take it as a whole.

Q. Sure. A. We have got to take it. We were very fortunate in San Francisco. We only lost about $300,000, but we have got to get that back some way, you know, if we can, and the business as a whole, the classification, would be a good thing, but I think the commissioners ought to — that is the different State superintendents, you know, ought to take that measure up and pass on it. You see, in a classification system, if you want to go into the detail, you could have a classification to-day that meant 200 different classifications, because it is not alone the classification, possibly, of the different kinds of businesses, you know, and different kinds of buildings, but there also enters in another feature, and that is, the same kind of risks may have a difference. For instance, you might have a printing establishment in one building, you understand, on six floors, and you might have a building occupied from there with six floors with six different tenants, and when we have there a printer or two, don't you know, the hazards would conflict, and to keep a detailed classification of all that would be very minute, but it is possible that they could keep a classification of, say, farming business, non-protected business, preferred business, you know, sprinklered business and miscellaneous business, or divide that miscellaneous in two or three different hazards. That is a matter, though, for wiser minds than mine to figure out.

Q. Well, I want to ask you one more question. We have heard a great deal about the San Francisco disaster and Baltimore and Boston, and so on. You just referred to it again. Isn't it quite possible that the companies may over-estimate, or are likely to over-estimate, the likelihood of another misfortune of that kind as to under-estimate? A. Well, it is possible, but it certainly would be preferable for them to over-estimate it than under-estimate it.

Q. You say that from the standpoint of the companies, or the assured, or either? A. Well, both, because if the insuring public has not got good insurance, the creditability of the concerns involved are also cramped, you know.

By Judge Bruce:

Q. Mr. Wickser, now, what is your attitude on the question of the valued policy law? A. Why, I do not think it is a good law.

Q. And why? A. Why, because it assumed to place a valuation, at times, on property that is not true.

Q. Well, who does that? A. Well, some foolish agent may do it with the assured.

Q. Well, he represents the company, doesn't he? A. Well, but I do not think in the interests of justice and honesty that there is anything to be gained by establishing possibly a wrong value on a piece of property, because the assured has always got a right under his contract to prove the value of his property.

Q. Well, if the company accepts a premium upon a stated amount in the event of total loss, in the absence of fraud, should not they pay that amount? A. Not if the man did not have the loss, because we do not insure a fixed sum of money. We insure a man's loss up to a fixed sum of money.

Q. Well, should the company accept a premium to an amount in excess of what it would pay in the event of total loss? A. It depends on the values, because it costs more to build to-day than it did thirty or forty years ago and you cannot tell what property is worth. The value may be so much to-day and ten years from to-day it may be worth five or ten times less.

Q. You know these policies do not continue, as a rule, more than three years, and are re-written at the end of three years. Should not the companies take at that time only a fixed amount of insurance upon a piece of property that they would be willing to pay in event of total loss? A. The company's agent, as a rule, is a man that is competent to know the exact value of a piece of property.

Q. Well, shouldn't they be held, the same as any other principal, to the acts of their agents? A. I do not think they should be held for any losses that the man does not have.

Q. Well, isn't the answer to that that they should not claim premiums on amounts that they will not pay? A. Well, a man's ideas change in the course of time. You cannot tell exactly what a piece of property is, was, or is going to be. A man's opinion may be wrong, even an honest opinion, but he may be wrong. We insure his loss.

Q. Well, you do business in valued policy States? A. Yes, sir.

Q. Have you advanced the premium in those States? The rates? A. Well, I could not say that. The boards in those States, or the rating exchanges have made the rates. How much they have taken that into consideration I do not know. We judge, of course, as far as the company is concerned, by their experiences of loss or gain, and we govern ourselves accordingly. We either cut our lines down on risks we do not want, or sometimes decline to write certain things.

Q. Well, is it, in fact, anything more than a stipulation in the policy as to what the liquidated damages should be in the event of total loss? A. Well, I would say this, Judge, that our experience is that the law is a dead letter where it is a law. That is, we very rarely have run up against any trouble. We have had a few cases, of course, but ——

By Chairman MERRITT:

Q. (Interrupting.) When you write a policy like that, do you take pains enough about it to see that it is all right? A. Well, we have to rely on our agents, Mr. Chairman. Of course, we are bound to get in once in a while. A man is bound to be mistaken or crooked or something like that, but as a rule ——

Q. (Interrupting.) If you had a lot of agents who never made a mistake they would all have to be officers of your company? A. That is right.

By Judge BRUCE:

Q. I presume you also, while you might oppose the valued policy law, you would not take the same attitude towards the coinsurance clause? A. I certainly would not. You mean whether I would be in favor of abolishing it?

Q. Yes. A. I certainly would not.

Q. And why? A. Because the rate is based from our assuming, or our experience, is very largely based on the question of total losses or partial losses, and at the present time a man is not compelled to take the eighty per cent clause if he don't want to, or he could take a ninety per cent clause, or one hundred per cent clause, or no insurance.

Q. Would you give him a different rate on each one? A. Sure; yes, sir.

Q. That is, if he takes thirty per cent, you would give him a different rate than if he takes sixty per cent? A. If he takes under eighty per cent he pays a higher price.

Q. Why should that be fixed at 80 per cent? A. Because the theory is that if a man frequently is insured, in case he has a partial loss, your chances of gambling with him on that loss are better. For instance, if you had a place worth $100,000, and a man only had $10,000 insurance on it, and he only had a $10,000 fire, you would get a total, whereas if he had $80,000 on it and he had a $10,000 fire, you would only get 80 per cent, or, in other words, your total would be reduced to 8/10ths of that.

Q. Just the other way, isn't it, in stating it. If he had a $100,000 building, and only had $10,000 insurance, and had a $10,000 loss, he would be carrying a $70,000 policy himself, and the company carrying but $10,000? A. Not if he had a $10,000 loss.

Q. That is, if he had $10,000 insurance and a $10,000 loss on a $100,000 building, he would get his $10,000?

Mr. Hurrell: Is the clause on or off in this illustration?

By Judge Bruce:

Q. Yes. Are you talking about the 80 per cent clause on or off? A. Talking about the 80 per cent clause on or off. If you had a $80,000 building and had a $10,000 fire on it, and there would not be any 80 per cent clause ——

Q. (Interrupting.) I see. Without the 80 per cent clause? A. And then only had a $10,000 fire, and I had $10,000 insurance, I had a total loss, where if there was $80,000 insurance I had only 8/10ths of that. Now, I would insure you for less if I thought I was carrying your insurance than if I thought I was not.

Q. Mr. Wickser, don't you think it would be more just and equitable and scientific to make a rate on the proportionate amount of insurance a man carries? If he carries 30 per cent give him one rate, and if he carries 60 per cent give him another, and 80 per cent another? A. Yes, but the trouble is in business now, and that is the trouble with the 80 per cent clause, it is only written on the congested values on the merchandise accounts, and things of that kind, and the average business man to-day if he is a good business man, as a rule he keeps insured, and the merchants as a rule do not object to the 80 per cent clause. They abolished the 80 per cent clause in Michigan a few years ago, passed a law against it, you know, and it created so much suffering,— well, I say suffering — so much trouble in the business world in Michigan, that the business men got together and they went to the Legislature and got the law amended. They did not abolish it. I mean they did not restore it, or permit it, but they permitted it by private arrangement. That is to say, there had to be a special rider in each policy; that a business man or company would enter into a special contract, see, for that 80 per cent clause if they wanted. They had to do it. If you abolished it in New York State you would have all kinds of trouble.

Q. Well, some States require that it shall be placed in the policy only upon the application of the assured, and that that application should be in writing? A. Well, I do not remember the detail. That may be Michigan's method, or Minnesota's.

Q. Minnesota, I think. A. But you must remember another thing, Judge, that the conditions in the insurance world in the city of New York and a State like Minnesota are two different propositions too. The volume, the values, you know what I mean,— you know the need of it is so much greater in certain sections.

Q. Well, you appreciate, do you not, that most assured do not understand it at all? A. Well, that is the only unfortunate part of the co-insurance clause; that some people do not understand it, and some agents do not understand it, you know, and they do not tell the assured. Now, in case it ever went so far as to license brokers and agents, I thought possibly in their license they ought to be obliged to qualify by some necessary — you know what I mean.

By Chairman MERRITT:

Q. Take an examination. A. Some examination.

Q. To show that they know something about the insurance business? A. Yes.

By Judge BRUCE:

Q. Now, we would like to have your views, Mr. Wickser, on the proposition of the State Fire Marshal law? A. Well, as a general proposition, I think it would be a good thing.

Q. What has been the experience of your companies in States where they have such a law? A. Well, we have seen good results of it in some States.

Q. Would you think the law should require an investigation of every fire, or only those fires which are surrounded by some suspicious circumstances? A. Well, I suppose if you put such a law into operation you would have to possibly make a report on every fire in order to make it complete. If you left it open, it would perhaps not be as satisfactory or thorough as it ought to be.

Q. Do you think that reports could be made by the officers or members of the Volunteer Fire Department in small places where they do not have a paid department? A. Yes, I think so; I think so.

By Mr. HURRELL:

Q. Mr. Wickser, you referred a while ago to the State becoming interested in this matter of rates in connection with this classification. I took what you said to me that the State, at the present time, would be unable to correctly make a rate because they would be without information upon which to base such a rate? A. Yes.

Q. Which they might make. And later on you spoke of the desirability, or the possible desirability, of classification with six or eight classes. Do you think that a classification of only six or eight classes would be of any substantial benefit, outside of possibly the preferred business or sprinklered business, in making a rate? A. I think it would be a good experience on those that do not enter into the miscellaneous nature. That is, those that

were specific, like proferred business, sprinklered business. I wish to say that I do not say six or eight classes. I do not know. I only say that is a matter that would have to be very minutely gone into, and it ought to be general all over the country, because if we had to keep 150 classifications for New York State and 175 for Ohio, and their classifications are different than ours, it could not be utilized as well as it would be if there would be some general or joint understanding between the different commissioners of different States.

Q. That is, you think before such legislation as that should be attempted, that a national commissioners body should pass upon it? A. I think they ought to recommend on that.

Q. Well, what do you think of the idea sometimes expressed by insurance men that they ought to turn over their information which they have gained by classification or loss experience, is giving away their business experience to which they are entitled as against their competitors? A. Well, I think they are entitled to that view of the case.

Q. Well, do you think that there is something in that? A. Why, yes. I think if a large company like the Home, or Continental, for years has been spending money for their own classification, for their own benefit and own advantage, that you could not very well expect those men would turn it over to the general public, or give them the benefit of what they have spent years and money for doing.

Q. Of course the purpose of keeping that classification is to enable the company to select desirable risks, that is, in reference to the rate? A. To regulate the income and outgo, either by an increased rate or by possibly carrying smaller lines. If the experience is bad on a $2,500 line you might say I will take it, but I will only carry $1,000 or $1,500, because we are not making any money on it. Sometimes you have to do business that you do not really want to, but you have to do a general business to satisfy your customer. You can't always expect a man to give you what is good, sometimes he had something not so good, and if you don't take the one you can't have the other.

Q. Referring to the state of anti-compact, do you believe that an anti-compact law would have any different effect upon small

companies than it would upon large ones? A. Well, of course as a general principle large companies can always take care of themselves a little easier than the small companies, and I do not know as there would be very much.

Q. Do you know from what you know of men and conditions in the business, do you think there would be any attempt on the part of the large companies, if there was an open market for insurance, to cut rates so as to drive the smaller companies from the market? A. I do not think there would be a deliberate attempt, but it might drift in that direction from the natural competition that would enter into the business.

Q. How practical do you think at this time a State Board of Review would be, and along what lines, if you were constructing that, would you think of establishing it? A. Personally I think of course that the insurance men ought to be the most capable of making rates. That is, from their experience and knowledge of the business, but they ought to do it free and above board, and not penalize or persecute anybody. Of course you cannot expect the insurance companies to make those rates and distribute them free gratis, that is to say in furnishing them they would naturally expect to furnish them to those people that pay for them, but I think everybody ought to be entitled to have his schedule, and he can get it to-day if he wants it, and if he is discriminated against, there ought to be some method made where any discrimination against him should not be allowed.

Q. If there were a State Board of Review to pass on grievances of anybody who thought they were not fairly dealt with by the company, what shape would that board be in to-day to decide whether a rate was too high or too law? A. They have not any experience to-day to decide it.

Q. Would you have this board merely pass on the question of discrimination or pass upon the actual price? A. I would have them pass on the discrimination; I do not think the State has got any basis at the present time to make rates, because they do not know the cost.

Q. And, of course, do you recognize any difference in principle between the State making the rate originally, and the State saying to the companies, this rate is too high, reduce it? A. I could not say about that.

Q. There is a difference in practice? A. It would have to be thought out more carefully.

Q. If there was a law against discrimination, an anti-discrimination law, then the State Board could enforce schedules which the companies said they were working on as between different citizens who were insured under those schedules? A. You never could compel a company to take a risk that it did not want to.

Q. That is all right, but that is where you would stop that power of the State Board then in enforcing the schedules which the companies promulgated, to see they applied them impartially between different individuals? A. We would always reserve the right not to write a risk if we did not want to.

Q. You are against the principle of forcing the companies to take business if they don't want to, and that is the difference between an insurance company and a public service corporation; the public service corporation has to serve the public whether it wants to or not? A. There is one thing I want to say if permitted, and that is on the rebate proposition; the reason I have always felt strong on the anti-rebate proposition was because I think it is very closely on the lines that we have in the railroad condition existing prior to the Interstate Commission, etc. We all know that the rebate system was the curse of the commercial world and was the reason why men enjoyed special privileges, for instance, that they were able to get better figures. Under the present plan of no rebates the business world is in a much healthier condition and much better off; and the rebate to a certain extent follows those same lines.

By Chairman MERRITT:

Q. There are a great many similarities between the insurance business and a public service business, the necessity of it, and various other things; unless you can force the company to take insurance or to take a risk it is pretty hard to see where you are going to begin either their operations or their rates? A. That is right.

Q. I have been asking every witness that I got a chance to what he could think of it anything that the State could do for the

companies, what concession, privilege, right, franchise or other consideration which they do not now enjoy which would be of value, that they could be given in consideration of regulation. Does anything occur to you, Mr. Wickser? A. Well, Mr. Chairman, it is such a large question, and our angle of the insurance question is perhaps different than a great many other companies, you know, and they have their views and their differences of opinion, but my idea is that it is a large question and has got to be handled slowly, and the worst features cleared up first. You know what I mean.

Q. Yes. A. There are times, you cannot hope in one year to perfect this whole proposition, but if it is deemed advisable, abolish rebates, that is one of the things in my judgment that should be cleaned up; and the next one would be perhaps tackling the question of commissions and expenses. There is one subject we have not dwelt on in this whole talk, and that is this, the fire-loss ratio as you know in Europe is comparatively nothing to what it is in this country, and that is almost I would say entirely due to the different character of construction, there is not the effort made by the American public as they build, you know, and they build buildings, to build buildings that are of slow-burning construction or retarding fires. The average municipality in the State has not got any building codes to amount to anything; even our large cities possibly outside of New York, for instance, Buffalo, has not got what is called a fireproof district, there ought to be, in the conflagration centre in Buffalo they had not ought to be allowed to build anything but fireproof buildings, and outside of that they had not ought to be allowed to build anything but slow-burning buildings, fireproof roofs, but in the city of Buffalo you go out at almost any point, and it is only in the last year or two that they have been putting in anything but shingle roofs, and the reason they are not putting them in now is because shingle roofs are getting dear; but a large city like Buffalo never ought to have those features. I do not know whether the State can pass any mandatory building code laws, but over half of this money is used for fire losses, and if the fire losses would be stayed in this country it is natural that competition would make the fire premiums less.

By Chairman Merritt:

Q. It has been said by somebody that our means of fighting fires, our apparatus systems, to a large degree, offset the especially good conditions as to construction in England particularly, but in the face of the difference in actual fire loss it don't seem as though there could be much to that argument? A. There is not, because the fire loss per capita in Europe, I don't know exactly, but it probably is not one fifth of what it is in this country, and then you must remember that the general public to-day are paying an enormous tax for fighting fires that they never seem to charge up against insurance. In other words, fire-fighting departments are costing you twice what they would cost you if you had the other character of construction.

By Mr. Hurrell:

Q. On this conflagration reserve as you have taken it in your plan there never would be for many many years, perhaps never, the reserve that would correct every insurance in the congested valued districts, would there? A. No, that would be according to the changes in business. For instance, if you permit me, 25 or 30 years ago in the city of New York the ordinary building may have only held two or three hundred thousand dollars worth of stock. To-day in the same section, the building twice as high, you may find a million or two millions of stock. Your congested values have changed according to the nature of buildings and business.

Q. Now, your company, the Buffalo German, does not have a great deal of risk in any congested valued district in New York City, has it? A. No, but it would be wise for you to get the experience of other companies than ours, because we are possibly extra conservative. We are in general ——

Q. Why are you extra conservative? A. We think that is the most profitable way for us to do business. We would rather do less business more carefully and a little safer and let somebody else have all the big bulk of the business; we think it more profitable.

Q. Wouldn't it be better for the business world if all the companies that were in existence were as careful in their under-

writing as that; couldn't the banking world and merchants be surer they were going to have the protection of the companies that signed their policies? A. They might be short of insurance; there might not be enough insurance men for the business world if they were all as careful as we are.

Q. Don't you believe if the merchants who keep their values congested in these special districts down town, don't you think they would of their own motion be driven to scatter their stocks in warehouses away from the congested districts and keep sample warehouses down town, and thus break up the great congestion of values there? A. You could not do anything that would have a tendency to tell them how to do business.

Q. I do not mean to tell them how to do business; wouldn't they have to do that? A. If they could not get insurance they would have to divide their risks; but the advantage of doing business compactly are so strongly in its favor that they would not do that unless they absolutely had to.

Q. This conflagration reserve of 5 per cent of the premiums? A. That is just an imaginary percentage.

Q. That was just for illustration — until you get it up to a certain amount, that would never be anything more than an additional sum which the company would be called upon to pay or would have to pay in case they had a small conflagration; even that would not prevent a company that wanted to from writing many times its assets? A. It would go a long ways towards helping them strengthen the whole situation all the way through.

Q. You think it would be a safer proposition for the State to move slowly in that line in cutting off insurance even though it might in the end —— A. Yes, this New York City is in a class by itself, that is, your values are congested. We do not accept liability in the city of Chicago, for instance, in the congested district possibly over a million or a million and a quarter, and if you want to do business in New York City you have got to accept a little larger value than that because the business here ——

By Chairman Merritt:

Q. Is greater in proportion than Chicago? A. Yes, sir.

Q. And when you get what you regard as a sufficient amount

in a district you decline to write any more in that district? A. We decline to write any more in that district.

Q. Until there has been a surrender or termination of risks? A. Yes, sir. That is even followed down beyond the congested districts. It is followed by a great many companies in blocks. For instance, if they have got their maximum in that block over there they won't write any more; if their maximum is 25,000 for that block, and they have written that much, they won't write any more; I am speaking of the average companies, not of the very large companies, because possibly they have different ideas.

By Mr. HURRELL:

Q. Do you take insurance and then re-insure it so as to keep down to your levels, or do you cancel it? A. We do at times.

Q. It is a practice to re-insure heavily in European countries? A. Yes, among each other.

Q. You were talking about preferred risks sometime ago: Do you think it is justifiable for the company to make the larger profits upon the small premiums upon the individual policies from the preferred business, or do you think it ought to be lifted off so the preferred premium will go still further? A. Well, in the first place, you cannot divide it absolutely, and in the next place the preferred premium, you know, is a small premium, and collectively it costs a great deal more money to do that business. For instance, your premium is $2.50, $5 or $10, as your mercantile premiums are $25, $50 or $100. The preferred insurer to-day, as far as I can see, is not complaining very much; it is the merchant, and it is the large manufacturer that needs and wants lots of insurance.

Q. Do you feel, if the companies do make a profit out of the small retail business of that kind, that it ought to be allowed? A. I do not think the prices are extortionate. I say, the business in New York is 25 cents, I think, for three years; that is $2.50 a thousand.

By Judge BRUCE:

Q. Coming to the city of Buffalo, do you have factory mutuals there? A. Very little.

Q. Do you meet their rates? A. No, we do not have very many of them; they may have a few isolated risks. Of course, the factory mutuals avoid all conflagration hazard to start in with. Then they get a rate which is as a rule five or six or seven times more than the actual premium they retain, so they are protected by five or six or seven or eight times the rate for the risks plus a contingent liability which the good factory mutuals use of as a rule four times the contingent; for instance, they assess a man a 75 cent rate; he accepts a contingent of four times that. That makes $3.75, where he possibly gets, if the rate is 75 cents, of his 75 cents, 65 cents returned in case they have luck, but at the same time they are always protected against large fires against this four times contingent.

Q. Do you think the law should be amended permitting them to do business in this State? A. I would not want to say they should not do business in the State under proper supervision.

Q. And would your observation be the same with reference to the New England miscellaneous mutuals? A. Any laws that permit of the mutuals doing business in this State should be sounded with a great deal of care so that they are responsible; the general miscellaneous business, if the mutuals are not properly managed, would be very disastrous.

By Mr Hurrell:

Q. On the subject of commissions, can you say from your knowledge whether the commissions on the average are higher in country districts than they are in city districts? A. I should say they were lower.

Q. Lower in the country? A. Yes, sir.

By Chairman Merritt:

Q. In making a rate what consideration do you think is given to what might be termed the amount that the business can bear; on this question of rates in other matters they start in with the proposition that the cost, for instance, of transportation, the actual cost of handling the business, the amount involved in the investment, and then there is this ruling which is referred to so

often about the amount which the capital invested is entitled to receive. Do you think that in the insurance rates that is the general theory on which they are built up? A. I think they try to follow that.

Q. At the same time I was thinking if in connection with the rate on the preferred classes that they do take into consideration as to whether or not it is a fair rate on the basis that I have just indicated as a basis for making the rate, that the people that are getting that insurance in small amounts can afford to pay it irrespective of the relation of that kind of business to some other kind of business. Unless you have got a public service function, the question of fairness which we call up don't appear to me to enter in; if there is not any obligation to furnish, why, you have the right to charge what the assured will pay just as you would have for a peck of apples if you were in the apple business? A. Competition offsets that.

Q. Competition offsets that, that is the answer and all the answer I can see to it. A. That is a very strong answer though, Mr. Chairman.

Q. I should think it would work out with all these companies as long as you have not got a combination of capital? A. Our experience is we can write, for instance, dwellings in New York City for three years at 25 cents, and pay quite a good deal to get the business, but that rate is based very largely on the companies' experience for years.

Q. The company gets more business by being liberal in commissions than they would by reducing the rates, because they would not reach the insurance public, would they? A. The insurance public will never walk into an office and do their business over the counter. Somebody has got to go and get it. You know all that costs money. The same in most businesses to-day you have got to go for business if you want it. The man who don't go for it, as a rule he don't get it. That is good in mercantile lines you know too.

By Judge BRUCE:

Q. You mean if the agent did not solicit merchants for insurance that they would not carry insurance? A. No, I mean that

the man that did solicit them would get them, and the man that did not would not.

Q. It is a case of where one company solicits all must solicit, isn't it? A. Yes, competition forces us more or less to meet each other on the same ground.

By Chairman MERRITT:

Q. Would the public get insured generally unless they were obliged to, unless they were solicited, I mean; would they go of their own free will? A. They would after they got burned once or twice.

Q. They might have to if a mortgagee preferred it? A. A good fire is sometimes the best advertisement of the business, because it calls the attention of the people to the fact that they can lose money.

By Mr HURRELL:

Q. Do you think the suggestion of Mr. Markham of St. Louis made here that the commission account would be reduced in amount if the number of agencies were limited in cities say to one agent in the city or town for one company? A. I do not believe as a rule in limiting anything that can possibly be avoided. I think it is in restraint of trade more or less.

Q. Of course there is a competition among the companies for agents, isn't there? A. Yes.

Q. And that is what leads to bidding up of commissions largely, is it not? A. Well, the general tendency, the desire for business, leads to the increase of expense in getting it.

Q. If one agent had the larger amount of business in his office he could afford to do that larger amount of business at a less percentage, couldn't he? A. Yes, but then the smaller man has got to make a living too, and he has got to have a chance.

GEORGE W. HAYES, called as a witness, being duly sworn, testified as follows:

By Mr HURRELL:

Q. Mr. Hayes, what is your business? A. I am an insurance broker.

Q. Are you connected with the New York Credit Men's Association? A. Yes, sir, I am a member of the Executive Committee, the Chairman of the Fire Insurance Committee.

Q. That association has taken some steps, has it not, to relieve what it considers to be a need in the fire insurance situation in this city? A. Yes, sir.

Q. Will you state what the credit men think is the need here? A. If you please, Mr. Chairman and gentlemen, the New York Credit Men's Association is composed of about 1,100 men. As you go into H. B. Claflin & Company, who are members, or you go into the Chemical National Bank, who are members, or the National City Bank, who are members, the Guarantee Trust Company, or go into any of the great factories applying for credit, it becomes a matter of concern as to your ability to pay for what you receive, whether it be money or merchandise. One of the foundation planks of the New York Credit Men's Association is the carrying of adequate and reliable insurance. All things being equal, the merchant who carries good insurance, adequate and reliable insurance has taken, as Mr. John Russell Young once expressed it to me, a bond on fate. The credit men of New York city were requested by the national association of credit men to establish a fire insurance committee. The honor was paid me as a member of the association of being made a chairman of that committee. The first thing to do to have the committee act intelligently, because four of them are not insurance men, was to, as best we could, acquaint them with conditions as they are in New York city. For that reason, the chairman went to the New York Board of Fire Underwriters and received an invitation for that committee to call upon them. Mr. Stewart, the Superintendent of Surveys, took the time and the trouble to go into the work of the New York Board of Fire Underwriters as to their electrical bureau, and the current is never turned on in the Metropolitan district until a certificate is obtained from the New York Board of Fire Underwriters. Somebody goes to inspect that whom graft cannot reach. Somebody goes to inspect that who is a trained man. Therefore that interest is conserved; and the live wire does a great deal of damage with an electrical current behind it unless it is properly cared

for. He went on to show us the work of the National Protection in building up, for instance, if I may show you, Mr. Chairman and you gentlemen, you all can see: At the corner of Pearl and Lafayette street, the chairman of this committee introduces this because I myself ask that these pictures be taken; the building right over here, after a quite considerable fire, showed that the old fashioned type of fire doors, just metal doors, had buckled; in other words, the fire went right through them. Now, at our meeting there we were advised that the companies maintained laboratories in Chicago where proper doors were tested. I will not take more time than necessary but I would like you to understand the care with which we have gone into this; so that the door, the present door, is of lock jointed tin, it is blind nailed; it is of sufficient thickness and riveted, so that at that point of communication it will stand as though a wall were there. He went on to show us further the pictures of the Baltimore conflagration and of the San Francisco conflagration, and then went on to show us through this great city, and if you please, we are all familiar with the small town where we have ten small buildings in a row. Now, if you please, turn those up on end, all filled with that same kind of merchandise. You have quite a good deal of hazard, multiply that by two, you have 20 stories, and it becomes a matter of very great importance to everybody in that building whether or not the tenants on each of those floors have that properly protected, whether there are unsafe hearing apparatus, whether there are gas stoves, whether they keep combustible materials. And he went on to show us that this work is more carefully supervised, and that men whose business it is first, pass upon the safety of these devices, or else the New York Fire Insurance Exchange was notified and a charge was made therefor. We then passed on by invitation at another time to meet the New York Fire Insurance Exchange where Mr. Robb went carefully into the work of the Exchange, the matter of schedule ratings. We then saw Mr. Snow of the Home Insurance Company; I have known him since I was a little boy, and we went to the finest American company whose president received us as a committee, and we were shown what became of a risk from the time it was placed under binder through all the departments to the loss pay-

ing department. We then asked Mr. Hotchkiss, who is very well known to our association, Mr. Hotchkiss attended to affairs as a lawyer in Buffalo on behalf of members of our association; we found him so fair and so straight and so clean that when he was made Insurance Commissioner, one of the best things Mr. Hughes did as Governor, that he received a letter from one of our most prominent members who said, we know so long as you are insurance superintendent there will be no graft, there will be nothing that does not stand the test of the right deal. Now, we asked of him a hearing to know from his higher viewpoint as superintendent of insurance in this State what he thought about the fire insurance business in New York city which we are primarily concerned with. He had to postpone it on account of family relations; his family came home and they had to open the house, he postponed it twice, but the third time he received us at his office in New York, and his first remark was, almost the first remark: the need for more good reliable fire insurance by the people of New York city is more serious than the need for more bread.

Q. Did your association agree with that sizing up of the situation from your investigations? A. Our investigation at that point, sir, was to acquaint the committee with things as they are. Shortly afterwards ——

Q. You were talking — pardon me for interrupting you. A. Certainly, sir.

Q. You were saying in pursuing that inquiry, you were taking the statement of the companies as to how they did business rather than the needs, taking it from the other side, the needs of the business man.

Q. Did you investigate that, and what is the conclusion from the business man's point of view? A. I will answer that succinctly and clearly, I think, that when a man becomes chairman of a committee which can legislate it becomes a very important thing as to what may be done by a majority of that committee. With 1,100 members of this association, we did not wish anybody to come before that committee first having seen individual members, and get some legislation that would have to be undone. I wanted them to understand what they were doing. Therefore, these things were shown them almost immediately following Mr.

Hotchkiss's opinion; Mr. Markham, from St. Louis, well known to be a most excellent business man, came to New York and expressed the same opinion in this chair where I am sitting. Now, if you please, that became a matter of very serious concern to the New York Credit Men's Association.

Q. You mean the statement of Mr. Hotchkiss? A. The statement of Mr. Hotchkiss.

Q. And Mr. Markham? A. And Mr. Markham, and we commenced to look into that matter, and, as chairman of the committee, I drew the resolution which was passed, and the members generally have expressed a great deal of interest in it, and we are more than glad to know that you wish the chairman of that committee to come before you.

Q. Of course, our idea in calling the chairman of the committee was to get from him or from the credit men who have published their desires in the press their ideas as to what could be done by this committee, that they could suggest to secure more insurance or better insurance.

Judge Bruce: Let me interrupt, if I may. Will you state first whether or not you found a statement made by the Superintendent of Insurance and Mr. Markham to be correct, that this need did exist? A. We did.

By Judge Bruce:

Q. How did you go about to ascertain it? A. If you will permit me, as an insurance broker, I knew that personally, for a risk — the fire insurance companies, naturally, when offerings are made at their counters, take the best part of the risk if they can get it; we will suppose, for instance, a twenty-story office building is built costing $2,000,000. The first thing that is placed as the building is constructed is the building itself; with these fine fireproof buildings the probable damage to that building is small. Now, a good many, as you were told yesterday, a good many men are building buildings in this city for investment, for speculation, and the building first being placed when it commences to be occupied you find that it is not equipped with protective devices, there are no automatic sprinklers, there are no automatic alarms, and as a fireman going up into the upper lofts, if you please, there

are two dangers, in the first place of suffocation, which is not perhaps often thought of, but it does exist; while the building is burning the fumes of what is burning below is apt to suffocate those men, and they cannot get to it. The companies accept the lines on the building first, and on the stocks on the lower floors, and when their capacity is taken they simply pass the thing up and will not take any more, so that there are hundreds and thousands of small merchants in this town who are not carrying adequate insurance because they cannot get it. That is so. Now, another thing, if you will stop and think a minute, gentlemen. Go up into the Singer tower or go up in the Metropolitan Life tower. Look out over the city. What do you find; that as the business is working uptown, a new woolen district, a new retail district. We are not only getting those great buildings filled with merchandise, but they are being put in side by side, hundreds of them, and there is not enough insurance to properly protect those buildings. Another thing, if you please, I personally as the representative of the firm and in charge of insurance for the largest single insurer in this country. I personally take charge of their insurance, and we know that we have had to distribute our lines, taking comparatively small policies in the best companies, with the constant anxiety that those companies might be wiped out by a conflagration.

By Judge BRUCE:

Q. Let me ask you, without asking the name of the assured, I don't care for that, how many companies does this assured have policies in? A. They tried to place the business themselves and do business direct with the companies, and naturally followed that course of procedure for a good many years. Then they found out — to answer your question — comparatively few companies had the bulk of their business because they knew them best. Now, as the business has progressed this assured, and it answers a remark that was made yesterday, an inquiry rather, of one of your Committee as to why the companies did not place business direct over the counters, one of the Committee asked it. The reason that this assured found that they could not do it to their best interests was this. We will, if you please, take a new

building which was constructed by its owner. I thought you would like to know this, and I brought the exact data; they built a new building. The first rate published was $70.35. The next rate $58.77. The next rate $46.62. The next $42.84. The next $37.17. The next $31.23.

Q. Over what period of time? A. Extending from March 22, 1910, to September 14th.

Q. All those different rates were given? A. Yes, sir; in other words the rate was more than cut in half as the matter was properly threshed out by a competent broker; and let me tell you another thing ——

Q. Let me interrupt you there. Was that on account of your having removed matters for which you were penalized? A. No, the building was first rated; the stock was first placed in that building with no protection, with a proper charge for exposure, and this scientific system of rating has done away with the old time agent, who was an ex-minister out of a job, with the saloon keeper with a pull in his ward, and it has gotten into the hands of men who are pretty competent to handle it. Now, over on the east side there is a merchant, I think, next to Senator Sullivan, who is the most popular man on the east side. He owns a building. He owns a factory, his own building; he has stocks; two stores of half a million value; and a large value of factory buildings and apartment houses. I asked him the other day what his experience was. I told him that as we were brokers and had some of these men come here seeking representation, we hoped we might want to bring one of them over to see him. He said that he never had known a condition of affairs in insurance that pleased him so well as to-day ——

By Mr Hurrell:

Q. I would like, if possible, to get at the specific suggestion which the National Association of Credit Men or the New York Association of Credit Men have to offer to the Committee that would assist in getting other conditions in here? A. Thank you, sir. I want to ask you, if you please, here is a map of the city of New York, and you will see, if you take a moment, that it is subdivided into three localities; in this section one, I ask you to look

at it, which is known as the high pressure zone bounded by Chamber street, Bowery and Third avenue, 14th street, Broadway, 23rd street to North river, this property is protected by salt water in the degree which is marked. Section two on this map of New York is the east side congested district, bounded by 14th street, 3rd avenue, Bowery, New Chambers, Oliver to the East river and 14th street. In the new woolen district from 14th street north, which is marked three, through Irving place to Gramercy park, including 4th avenue, and is outlined on the map. To save time, we felt that if your Committee would make an investigation, you probably would suggest that that should also be protected by salt water mains. Now, last summer we had a drought just above us in Westchester county, and it came down to us in New York so that our water had to be boiled to drink. Now, if a conflagration had occurred at that time we would have actually been between wind and water; if we used the water we would not have had drinking water, and we would have had to put out the fire. Now, we ask this Committee to do two things, first, is not this a reasonable request of the Investigating Committee who represent the people of the State, and next, we ask you to investigate whether or not politics are interfering with the proper efficiency of the fire department in the city of New York to-day.

Q. Of course, the Committee has been instructed, as I understand by the resolution, to investigate any departments of the government, simply pertaining to the State government itself. I get your suggestion to be that general insurance would seek this section if the high pressure zone was extended in this city? A. Exactly, and if this Committee would make this matter clear to the Legislature as to what it should do. Now, what I want to know is why so many fire companies have come to this country and retired from this country. Have they been legislated to death for one thing; have they been compelled to give up their agencies because it was so expensive that they could not stand it?

Q. Well, what is the conclusion of the New York Association of Credit Men on that subject; have they investigated that? A. They are at work at it at this time, and are investigating it thoroughly. We have asked the Chamber of Commerce, who meet on the 27th of December, to appoint a member of the com-

mittee. We have asked the Merchants' Association, who have appointed a committee. We have asked the Bankers' Association of New York who have appointed a committee.

Q. Well, then, you have not come to a conclusion upon that, whether you want to say to the Committee, to take the responsibility of an opinion that the State has legislated good companies out of the State. You do not know that, as I understand it; you simply suggest that as something the Committee might think about? A. I do know this, sir, because as special agent and State agent for Illinois, where he is a member of the executive committee, as Mr. Hurrell knows, of the State, with the responsibility of rate making, that during that time I went to England and was at the home office of the company, and I met their company managers, and their feeling was that in America we made it so hard for them, and had such onerous requirements, and that with the whole world to do business in, that they preferred not to come here, and our company, with $25,000,000 of assets, finally withdrew from this country.

Q. What is the name of that company? A. The Lancashire Insurance Company, of Manchester, England, who owns a building yet in Pine street to-day.

Q. They are not doing business here? A. No, they have withdrawn.

Q. And you think the reason they withdrew is because we have too many laws here affecting insurance companies? A. Not so much that, sir, as that there is no uniform law throughout the country.

Q. Of course, that is something we cannot help here; that is, in this State? A. As goes New York, so goes most of the legislation of any other departments all over the United States, and I made an address on fire insurance before the Insurance Commissioners at their request and told them the same thing.

Q. Well, have you any other specific suggestion that might be helpful to the Committee, coming from your experience? A. Yes, sir; and that is true, if you please, have it known that as you have examined witnesses here without, I think you lawyers call it rebuttal, putting a reply to testimony.

Q. Well, it depends on what kind it is. We have tried to simply

get the facts out here on this whole situation. A. You have had men come here and testify on this stand about things, with no opportunity to have an explanation. That we would like them to know that your minutes are being read, and that there will be an answer, and that an equal publicity will be given to the reason why things are being done. Half of the statement is not fair.

Q. You mean the reason why things are done by companies? A. I have particularly in mind, if you were to make inquiries, sir, each member of this Committee, of the company offices throughout this country, in Springfield, in Hartford, in San Francisco, in New Orleans, where home offices of companies exist, you would find that the most scientific, best system of rating that has ever been known in this country on fire insurance, is that of the New York Fire Insurance Exchange.

Q. You say that as a broker? A. I say that as a man who has — who appointed the father of a well-known resident of this State, agent twenty years ago, and has been continuously on the firing line.

Q. Are you commissioned by your committee and your association to make that statement, that the New York Fire Insurance Exchange is a benefit to this community? A. Yes, sir. I am commissioned by my committee to do whatever, in my judgment, as chairman, I think should be done, and the executive committee absolutely stated that.

Q. So that the Committee may feel that that is the feeling of the members of your association? A. It certainly is, sir, and who are really the backbone of this great city.

Q. Is there anything further in the way of specific suggestions that you have to make? A. Well, in the first place, we would like to thank you all for your coming here and going into these things. We think that is going to be productive of good, but we do not like you to take men and put them on the stand here and let them say things, but not have an answer known to the public.

Q. We will take care of that. We are getting the facts out here as they exist, from the citizens and from the companies, and from the brokers, and from the agents, and from the fire bureaus ——

By Judge Bruce:

Q. (Interrupting.) And recognized, too, that in the first instance the men called to the stand were the officers of the Exchange; first the officers of the National Board of Underwriters; then the officers of the New York Board of Underwriters; then the officers of the New York Fire Insurance Exchange; then the officers of the Suburban Fire Insurance Exchange; then the officers of the New York State Association, and then the officers of the excepted city of Buffalo in the rate-making body, so the people who have had the center of the stage certainly, without any discrimination against them, have been the officers of these organizations, and if their case has not been fairly put before the Committee, it is certainly lack of no opportunity extended by the Committee. Now, Mr. Robb was on the stand for about two days, and Mr. Babb of the National Board of Underwriters, and the New York Board of Underwriters, so that we think a very ample opportunity has been given the members of these organizations to state the purpose of their organizations; what they do, how they do it, and the reason for their existence? A. The answer to that, Judge, is this: What we want to do in this State is first have this Committee help us by investigating the subjects that have been passed upon by the executive committee of the Credit Men's Association and ask them to help us with this conflagration hazard; to see whether this fire department is properly cared for, and next, let it be known that if this business is conducted in a way that merits the approval of the stockholders of these companies, that they shall continue their money in these stocks. We do not want them to give it up. We want more companies to come here. What we are going to do is to ask your highest class bankers and merchants in New York to make a business of it; to call upon the chairman of the board of directors, or upon the officers of these companies, as they go about in this great world, and find out why they are not here. We are going to invite them to come here and look us over. We would like the report of this Committte and its finding to not be one-sided. We would like you to have this a most admirably managed institution, this rating institution, so that it becomes a good business matter for these companies to come here. We would like you to say so. We are going to invite

them. We are going to have a committee and the members of that committee will be the highest class men in this country. Invite them to come here. There will be somebody to receive them; somebody to introduce them to Mr. Eaton of the Liverpool and London and Globe, and Mr. Snow, of the Home, and to take them about our city. We want more capital here under the supervision of the Insurance Department. We do not want any back door companies.

By Judge Bruce:

Q. Now, I understand your proposition to be, as representing your organization, that the great need of the State is for a larger market for insurance? A. Judge, it is. There are lots of companies with reputations behind them who are possessed of the assets to come here and make their deposits at Albany, under the supervision of the insurance department, to do business regularly, where, if there is a loss, it is a promise of pay to somebody who does business in Jersey City, or goes up to Connecticut and does business, but we want the money there, with their reputation behind them for square dealing. Since this movement was taken we have had no end of promoters come to us, some of them with beautiful pipe dreams of how the chamber of commerce, the merchants' association and our association were going to help them. We have only answered them, "As soon as you have got the organization, and the approval of the Insurance Superintendent, come to us, and then we will talk to you; until then you must excuse us. We are not in the promoting business."

Senator Wagner: Mr. Hays, in connection with what you said a moment ago, I would like to ask your opinion of a matter. We had before us, I believe, the manager of the Suburban Fire Insurance Exchange, and the Exchange's membership is practically the same, I understand, as the membership of the Fire Insurance Exchange of the city of New York, or Metropolitan district; and evidence was brought before the Committee that the rates charged in that suburban district had increased after the Exchange was formed; and we tried to ascertain the reason for the increase in rates. We gave Mr. Reed an opportunity to come be-

fore this Committee, and show us why there was a necessity for the increase in rates, and we gave him the opportunity which you got a moment ago, and which you said we ought to give each one of these companies a chance of replying. His only answer was that he understood before the Exchange was formed the premiums were inadequate to meet the losses; in other words, that the companies were losing the money. But in addition to that mere statement from him we have had no proof before this Committee that that was the fact. Now, don't you think the companies, if they wanted to be fair with the Committee, ought to come in with their facts and figures and prove to us that the increase of rates was an absolute necessity?

The WITNESS: Answering that, sir, when the rates of the Metropolitan district went all to pieces because the last rate-making body went out of business, however it did go out, a great company in Philadelphia had a very large business in New York city. Their agent was somewhat dilatory in closing up their affairs. They had millions of liability here that they were not willing to continue at the lower rates. They said to his agent, "You are taking too long, the mails are too slow, unless you tell us about keeping the insurance on these risks, or keeping it on that building or that." The president answered: "I will put a man in your office that will answer for our company instantly." I was sent here, and was here nine months, closing up the affairs of that company. And the rates that were being offered, without any basis on which to make them were so inadequate that on behalf of the stockholders of that certain company they would not continue business. In the territory of the Suburban Exchange the strong probability is that a large amount of that property is subjected to what we are, sir, in this city; tremendous gales that blow off from the sea to the drought that came last summer,— and it was a very serious matter — people could not have water in their bath tubs for weeks,— much less to their comfort — and the rates were not adequate and therefore they were properly advanced.

As to his opinion as manager, that, of course, was his personal opinion.

Judge BRUCE: Is there anything further, Mr. Hays, you would like to add to the record on behalf of your association?

The WITNESS: I don't think so, Judge.

Judge BRUCE: That is all. I thank you for coming here. If your association has other views you wish spread on the record, you will be welcome to come back with them.

The WITNESS: May I have one more word, if you please, Judge. A question was asked question — two things came up I would like to answer with your permission. The first one was that a man was required to carry insurance in a certain locality in this city, and he had to take the clauses of the company without any recourse. Now, the man who made that statement knew better than that, and he should not have said it to confuse you. What he should have done was to have written to this great leading firm, and said, "The requirements on my policy are thus and so, won't you please hold me free from any obligation thereto, because you have assumed the responsibility," which is the custom and which is always done. H. B. Clafflin & Company was the firm. They can warrant sole occupancy; they can warrant the proper sprinkler system, and they can warrant an automatic alarm. He should never have testified to what he did here. Another thing, as to the Exchange's schedules, should they become common property. I answer that is no more a proper thing than that your pocket book should become common property. If a man wishes to have his rate investigated, the Exchange will give him his schedule, and if it is lost, they will give him another, and it goes by his direction to the man whose business it is to look into it. Why do I speak of that? I have a very large customer that deals in patented articles, and doesn't want what is done in his premises known to his competitors. If you would permit some man in the guise of an inspector, with a schedule, to go into his place the secrets of his business,— and he started without anything and gradually brought these thing together until he has a business to-day that is very large, with half a million dollars invested in it; he can't allow those things to go out. It is proper that those things should be protcted by the Exchange, and it is. Thank you.

Mr. HURRELL: Mr. Buswell.

FREDERICK C. BUSWELL, called and sworn as a witness, testified as follows:

By Mr. HURRELL:

Q. What is your business? A. Vice-president of the Home Insurance Company.

Q. How long have you been connected with the Home Insurance Company? A. More than twenty-nine years.

Q. In various capacities? A. Various capacities

Q. What is the particular work under your jurisdiction at the present time in that company? A. Why, the underwriting work in the middle west; seventeen or eighteen States out there, that report to me.

Q. And in that capacity you have had a great deal experience with the various States in the middle west, and their laws? A. Yes, necessarily.

Q. And their laws have varied widely, have they not? A. Oh, yes; we have a great variety of laws out there; no two alike.

Q. What I want to get before the Committee is your experience with the different rate-making machineries which the various States have; and I will lead to it by asking you the question; do you believe that the situation generallly under anti-compact laws is better than it is in the States where compacts are allowed; for the companies, and for the public? A. No, I think the situation is decidedly worse for everybody concerned; and apparently that view has become accepted now in quarters where at one time it was felt that the anti-compact law was indispensable. I refer particularly to Kansas.

Q. You know that Kansas situation pretty fairly? A. Very well. Until the passage of the law under which we are now working in Kansas they had a very drastic anti-compact law, which forbid us agreeing upon rates. They now have faced right about the other way, in effect, and taken this view; that rates should be uniform. Under the anti-compact the intention is, as I understand it, there shall be wide open competition, and that everyone who wants insurance shall make the best terms he can, with any company that cares to write his risk.

Q. What led, for instance in Kansas, to the anti-compact law

in the State; your company was there when that law was enacted, the anti-compact law? A. Yes.

Q. Was it a combination of companies which were charging too high rates which led to the popular feeling which resulted in the anti-compact law? A. I think that law, like a number of others, grew out of the general feeling that corporations particularly were very apt, if they were not controlled and regulated, to agree upon terms and charges that would be oppressive and unreasonable. And it was not insurance companies only that were affected by laws of that character, but, I think, railroads and express companies.

Chairman MERRITT: While they were regulating, they thought they might as well regulate insurance?

The WITNESS: Exactly.

By Judge BRUCE:

Q. Have these anti-compact laws been effective for the purpose for which they were intended? A. I think not. I think the effect of an anti-compact law is to create a situation that makes for discrimination between different buyers of insurance. That is to say, the small man who has one risk, and the premium not very large, and not worth while shopping around for, and wasting much time on, will pay one rate; and another man who has a much larger amount of insurance, and whose business is of much more importance to the agent or broker, will by manipulation of one kind or another, introduce in competition of various kinds, outside, perhaps be able to get better terms. And that is the result, I think, which has followed in some of the States in the west that have been working under anti-compact laws, and they are now trying to stop that. I am informed that Mr. Barton, the Auditor of Nebraska, in whose department insurance is supervised, has invited the companies to confer with him for the purpose of deciding a bill, which he would introduce as a department measure at the next session, for the purpose of doing away with discrimination; that is to say, to secure uniformity throughout the State; the same charge for the same hazard wherever it may be found. And I think they have about agreed, several of the companies and their lawyers in conference with the auditor there have agreed,

upon the terms of the bill he will introduce as the department measure.

By Mr. HURRELL:

Q. What are the general outlines of that bill? A. Simply to secure uniformity; it is an anti-discrimination bill. Now, that is the cry out there now; there must be no discrimination. Another illustration is in the State of Oklahoma, where they have a general anti-discrimination law. Now, that law was intended to apply, I think, to railroad and general public service corporations; my recollection is that insurance is not mentioned in it; but perhaps the terms are broad enough to take it in. The Superintendent of Insurance in Oklahoma ruled it applies to insurance, and said, you must not discriminate; you have to have uniformity of rates throughout this State.

By Judge BRUCE:

Q. Does that mean uniformity among the companies, or uniformity by one, with relation to the same risks? A. One company, not all the companies; the companies cannot agree. There is another law which forbids the companies agreeing; but that one company must charge the same rate for the same hazard wherever it is found.

Q. Is there any such thing as the same hazard? A. No.

Q. How is that law going to be effected?

The CHAIRMAN: It is nothing but a declaration of sentiment, is it?

The WITNESS: That opens up a large question of classification.

By Mr. HURRELL:

Q. As a matter of fact they approximate it by using a schedule which is restricted enough to make up for the difference in various items of a risk in one class? A. Oh, yes, there are schedules provided for practically all classes, all the important classes, which provide a specific charge for a specific defect wherever found; a base rate, and then they add so much for any defect.

By Judge BRUCE:

Q. In these anti-compact States have the companies practically defeated the laws by buying rates from public raters? A. No, they have not defeated the law. They are buying information from the raters. Each company has to use them for individual information; we can't confer with each other in the matter of rates in those States.

Q. Is there then in those States genuine bona fide competition on rates between the companies? A. Yes, sir.

By Mr. HURRELL:

Q. You confer with the rater that sells the rates in those States? A. Yes, we do, we receive his publication.

Q. And does he make some sort of a contract with you, — I am not trying to develop this to expose your company to some attorney-general in the west, — but as a matter of fact doesn't ordinarily the rater agree with the company that that company that buys his rates, to use them, and apply them? A. Not us. From the very beginning we have made our individual contract, which I drew myself, and which is in typewriting; and it provides this: That we subscribe for the publication of your bureau for the year 1910, for which we agree to pay so much; and it is understood that neither directly or by implication is this an agreement as to what use shall be made of the information. That is always in. These things have been examined by attorney-generals.

Q. Of course, you make suggestions, confer with this rater that you have, as to what the rate shall be that he puts forth, do you not? A. No, not generally. We know what kind of schedule he is using, and what the results are, and if it is quite satisfactory we tell him so and if it is not satisfactory we try to find out why. If a new risk is submitted to us, and there is no rate on it we ask him to put a rate out. That is all we do in the way of conference.

Chairman MERRITT: And if he gives anybody else the same information it is not fair to yourselves?

The WITNESS: I don't know what he does.

Q. That is, you know, but you don't know it so you could swear to it? A. We couldn't swear to anything about that at all, be-

cause our dealings are individually with him without reference to anybody else.

Q. As a matter of fact, do you know where the companies in those States, — I think this question was asked before, but I will ask it again — whether the companies in those states, where that thing does on, and that kind of contract is made between this independant rater and the companies; whether the companies do in those States observe a uniform tariff; do they observe the rates of the rater? A. I know from many cases coming to our notice, where they don't observe them.

Q. Then you get that discrimination? A. Then we loose our risk.

Q. That is how you know? A. That is how we know.

Chairman MERRITT: Is the value of this schedule you buy, of this information, does it consist in the fact that you believe this rating bureau has a greater scope of information, and can more accurately do this sort of thing than you could do it for yourselves; or is it because, on the whole, it is a fact, that the people who buy the rate, generally follow the system, and adhere uniformly to it?

The WITNESS: It would be practically impossible for any one company to do it for itself, because of the frequency of the changes that are coming up and the difficulty of keeping up with them.

Chairman MERRITT: Their experience would not cover sufficient ground?

The WITNESS: It is not a question of experience; it is a question of employing men to get around and do it. The board, in this way, by getting a large number of companies to subscribe to support the work, is enabled to employ a sufficient number of men to cover the ground, and rapidly give us the information.

Chairman MERRITT: What information do you furnish him by the terms of your contract?

The WITNESS: None at all. We know in a general way that he is using a certain class of schedule, what we call out there the analytical system of schedule rates. I think all these schedules vary, more or less. I know that a schedule that would be proper

in Minnesota would not do at all in Tennessee; but the general system is similar throughout.

Chairman MERRITT: How does he gather the information on which he bases the schedule, do you know?

The WITNESS: By inspections, which are made by his surveyors, or employes.

Chairman MERRITT: Those inspectors might call on your office for information; is that so?

The WITNESS: No, they go and look at the property.

Chairman MERRITT: Then, they have the information as to what insurance may be wanted on it?

The WITNESS: I don't think they get that at all.

Chairman MERRITT: They don't pay any attention to it?

The WITNESS: No; they simply estimate what that list should pay, and that is reported to headquarters, at Topeka, or Columbus, or wherever it may be, and printed; and revision slips are usually sent out once a week. We get those Monday mornings as a rule.

By Judge BRUCE:

Q. Then how do you have competition between the companies; do they go and examine the risks themselves, and see whether one can under bid the other? A. Competition comes through the local agents. They are the people that compete with each other.

Q. Do they have the discretion to modify the rate? A. Well, the instructions under which they are working as a rule, they have their rates, we think they are going to go by; but we believe there are companies who allow them to treat that with considerable discretion, and elasticity. It looks so.

By Mr. HURRELL:

Q. I was going to ask you, Mr. Buswell, how does Mr. Bartwell propose to get at this discrimination in this new law; what is he going to require of the companies in order to find out, or get a basis to work on; is he going to require the filing of schedules with the Insurance Department? A. I cannot answer that. I have not seen a draft of the bill. But I imagine that would be the plan. I don't see any other way of getting around it.

Q. Is that going to apply to all the companies in the State, collectively, or to only one company in this business, this anti-discrimination feature; do you know that? A. I don't know that, unless they change the present anti-compact law I should say it would apply to each company individually.

Q. You don't know whether that is to include a change in the anti-compact law? A. I don't know whether that is part of the plan or not.

Q. You were about to describe, when I interrupted you, what the situation was in Kansas; and stated that it had gone from a state of combination, by legislation, into an anti-compact State, and then it had adopted a new system. That has been referred to here several times. I would be glad to have you detail it; just what went on after they repealed the anti-compact law; just what was done in Kansas? A. I don't think they repealed the anti-compact law. The present law, the rating law of Kansas, provides that every company licensed to do business in that State shall file with the department in Topeka its basic schedule, that is, the schedules in which specific risks are specifically rated, and every specific tariff that has been adopted by it, and also keep up the changes as they occur. That the agent shall be provided with a copy of both the basic schedule, and the tariff of his town, or the tariff of every risk he is authorized to write; and that the company must not deviate from that public rate; and it can be changed only on ten days' notice, or ten days after filing, excepting where the change occurs by reason of a change in the physical conditions.

Judge BRUCE: Now, practically, what do they do; simply file the schedules of the public rater?

The WITNESS: Yes; that was the expectation, I think, of the department, when the bill went through, that all the companies would file the same rates.

Q. The Superintendent of Insurance there was given the power of veto over the rates, was he not, the power to reduce them? A. I think in a degree, yes. That is to say, in case complaint is made that any rate is unjust or inequitable he shall call upon the companies to explain or defend it, and if he finds that the complaint is well founded, he shall instruct the companies to file a different rate, higher or lower.

Q. Did Superintendent Barnes order a reduction of rates in Kansas? A. He did in mercantile classes, to twelve per cent; perhaps a year ago, or a little later, he ordered a reduction on dwellings.

Q. What? A. In the annual basic rate of dwellings.

Q. Now, what I was getting at is this: if a company in a State that had that kind of law on its books were to file different schedules, then an order reducing rates would work inequalities as between the companies, because some companies might be lower than others, and some higher, and you would get a straight reduction that had no sense to it whatever? A. Precisely.

Q. Now, if there were any companies in Kansas that filed schedules with the department, one schedule different from another, when that order went into effect, it could affect nothing, except to show the desire of the superintendent to reduce rates a certain percentage? A. Yes.

Chairman MERRITT: What would happen?

The WITNESS: The companies simply had to accept the business or let it go at that reduced rate. Some accepted it, I think. Some classes of property were declined. That brought some of the mercantile classes down to a level where they are not at all attractive.

Chairman MERRITT: Did they have any litigation out of it?

The WITNESS: Oh, no.

Chairman MERRITT: It was never tested?

The WITNESS: No, it was not decided; that particular question has not been decided, because the constitutionality of the entire law is now before the courts. It has been argued and I think it is before the Federal District Court at the present time.

Chairman MERRITT: You haven't had the decision?

The WITNESS: The decision has not been handed down.

By Judge BRUCE:

Q. Now, how does the law work, as a whole, from the point of view of your company? A. In some respects the law has been very satisfactory. That is to say, we never have any trouble now about cut rates; we never hear any talk about cut rates; and we would not think of cutting rates.

Chairman MERRITT: That is, rebating?

The WITNESS: Rebating? On that question, it is satisfactory to the agent, I think. He never has any fear now that somebody else will offer to give a part of his commission, because if he does he is liable to lose his license. That reduction I mentioned, of twelve per cent on certain classes of mercantile stocks, has brought those rates down so low there is not much margin in them for anybody. Some of them are probably below cost. And that feature of the thing we don't like, not really what it has done, but what still may follow. We can't tell what somebody may try to do to us; somebody there may possibly do something that would make the business so unprofitable we will have to quit. That may easily be.

Q. From your point of view, which would you prefer, anti-compact without the review, or permissive compact with a review? A. I would prefer the permissive compact with a review by the State, provided the State would not claim the arbitrary right to change their rating.

Q. What would be the worth of a bureau of review? A. It would be worth this, it would secure — the State could then secure uniformity throughout the State, and they would know then that every citizen of the State was paying each, the same rate for the same thing. Now, that may sound like asking a great deal, but it is not nearly so bad as it sounds, because the law of competition may absolutely be depended on to see that nobody is imposed upon under these conditions.

Q. Take the Metropolitan district of New York to-day, there is no competition on rates? A. Well, I am not familiar with New York city conditions.

Q. Well, the evidence here is that all stock companies belonging to the New York Fire Insurance Exchange; of course, they fix the rates and maintain them, so that there is no competition; now, if a State permits that, should it reserve the right of review? A. Well, there seems to be sufficient competition; the London Lloyds take a whole lot of premiums out of here, you know.

Q. Well, if they do, the contract has to be made there, as they are not licensed to do business here? A. I understand some of the New England mill mutuals are writing considerable business here now.

Q. That has to be written out of the city; we are assuming insurance that is permissible under our law, to be written in the State; if a government allows a combination to maintain and fix the rate, shouldn't it reserve the right to review, so that the citizen who feels he is discriminated against in the fixing of the price on a necessity, a commodity, can have a tribunal in which he could be heard? A. What would be the standard under which the thing would be tested?

Q. Just the same as a case is tried over in the court house here. He comes in and protests that the Superintendent of Insurance, assuming he was a party, that the rate fixed is too high. The Superintendent of Insurance calls upon the company to show cause why the rate,— why the rate is as it is. They come in and submit the evidence to them, and they pass upon that evidence? A. Well, I might go across the street here and buy a suit of clothes and protest that the charge is too high. I do not see any more reason for having that protest received in the case of insurance than I should in the case of an overcoat.

Q. Well, in the case of an overcoat, if the government permitted all the merchants in this State to combine and fix the price of clothing, and maintain a uniform price, should not it have a right of review then? The government should not permit any combination to fix the price of a commodity which is a necessity without reserving the right of review? A. Well, that is a very large question.

Q. Well, it is not open to very wide discussion as to whether or not there should be a monopoly allowed to exist without government review? A. I never have seen the place or the time when the insurance business was a monopoly.

Q. Well, I think so far as our evidence goes here, in this Metropolitan district, it comes nearer to being an absolute, copper-lined, nailed down, riveted monopoly, than anything I have ever known in history. Every company doing business in the Metropolitan district is a member of the New York Fire Insurance Exchange. Every company has signed an agreement to maintain rates. They have a rate-making body which makes the rate and maintains it, licenses brokers, who must sign a certificate that they will give preference to the companies who are in that ex-

change; to the members of it, and where does the insured, unless he goes looking for insurance outside of his own State, or for some company that is not licensed to do business — in what market does he buy? If there is anything in the line of monopoly that is more complete than that, I do not know of it. But, at the same time, I am not sure but what it is a good thing, if regulated. We are living in the age of combination. The time for competition among units has gone by. That probably is true of insurance as well as anything else, but if the government is to permit combination in insurance, the question which I wish to address to you, you have had a very large experience in insurance, is whether or not it should not reserve to itself the right of review, so the purchaser of the commodity, who must buy at the price, has a tribunal to which he can protest? A. If it were possible to create a monopoly of it I am inclined to think I should be with you, but I never have seen, as I said a while ago, that in insurance.

Q. Suppose you wanted insurance on that building on the corner over here. Now, where would you go to get it? A. I am not as familiar with New York city conditions, as I was a while ago, and what can be done here I do not know. The gentleman who preceded me on the stand, I think might be able to tell you more about it.

Q. We have been able to discover no legitimate market, unless the contract is made outside of our own State, except the New York Fire Insurance Exchange. A. (No answer.)

By Mr. Hurrell:

Q. I suppose the fact of whether or not the companies were making the enormous profits out of this combination might enter into the situation, might it not, Mr. Snow, as to whether the government should regulate them to the extent of telling them what they should sell their commodity at? A. I do not know how you are going to determine what is an enormous profit.

Q. Well, I say, I presume from the companies' point of view, the question of whether the State should enter into the situation and fix the price of what they are selling — that the question of whether or not they had made enormous profits would be one

thing which would help the State to determine whether they wanted to mix in the situation? A. Well, from the standpoint of the State, I should think they might have that power, but I do not believe the stockholders of the companies would be willing to admit the force of it. In the first place I do not think and expect that the insurance stockholders would leave their money at the hazards, at the risk of every hazardous business for the return that they would get on a real estate mortgage.

By Judge BRUCE:

Q. That is undoubtedly true? A. I do not think there would be any difference of opinion on that.

Q. No; there could not be? A. And the underwriting profits, as made in the last ten or fifteen or twenty years, are very much smaller than is generally believed. It very likely would appear at those figures around three per cent.

By Mr. HURRELL:

Q. That is the companies' attitude on this question of State regulation; the fact that they have not been making enormous profits does not show that they ought to be regulated; isn't that the companies' attitude? A. Yes, sir; competition is regulating it.

Q. By competition, you say? Of course, in New York city, with which you say you are not familiar, but I suppose you know enough about company practices to know whether or not there is any internal pressure in the company organization that would lead to the reduction of a rate, even though there was a combination. Do you know whether or not, taking the building the Judge has referred to, if that were rated too high, whether there would be any internal pressure from the companies that knew it was rated too high to try to get it down? That is, how would the competition work in the place where there is a close combination? A. Well, the field I am familiar with, it works this way: The agent that has not got the business is constantly scouting around to find where he can get something new, and will find out how that rate is made; what enters into it, and will see what he can

do to get it down, and either directly or through his companies, he will bring pressure to bear to get that rate reduced, after he has a promise from the owner, "When I get your rate down, I will have a line," and the owner promises, and he makes him an offer he might not have if he had not been solicited in the effort to get the rate. That brings them down all the time; daily.

Q. Now, I want to ask you about a field with which you are more familiar, and that is the operations of the companies in the middle west, in the Western Union, on the subject of commissions. Do you believe that the commissions paid by the companies are in excess of what they ought to be? Your company is in the Western Union, is it not? A. I think there are commissions paid that are very much higher than they should be, in what are known as the excepted cities; that is the six large cities out in that field, where there is no agreement in the matter of commissions. Now, there are States there where we cannot agree on commissions. Ohio is one, and South Dakota and Nebraska and Iowa. The anti-compact clause in those States go so far as to say you cannot agree on commissions. Iowa goes even a further step than that, and says we must not agree on the manner of doing business. Now, I would not dare to confer with an officer of another company in regard to the form of the policy there, although we both might be on the same risk. The Iowa law does not allow us to discuss that even.

Q. What is the general work of the Western Union; general function? A. It has not so many functions now as it had ten or fifteen years ago. The passage of these laws has restricted its operation. Its general function is the dissemination of information among the members, and so far as it can, the limitation of commissions. Its chief value is that it limits commissions in the entire territory where we are at liberty to do that. We know it is a comforting thought to us to know that when we are in an agency with other union companies, that nobody is paying any more commission. That we are, so far as that goes, we are all on an equal footing.

Q. You are competing with non-union companies on the question of commissions, are you not? A. Yes.

Q. And the non-union companies have lately formed an organ-

ization of their own? A. They have lately formed an organization of their own; about fifty-two or fifty-three of them I think are in now.

Q. Do you know whether the main object of their union is to regulate commissions? A. Precisely, and regulate the expense of doing business.

Q. Well, how does their new proposition compare with yours on the commission basis? A. It is substantially the same, with the exception that on certain classes their schedule of commissions is five per cent higher than ours.

Q. Higher? A. Yes.

Q. Do you think there is anything that this State could safely do on the subject of commissions; regulating the expenses or commissions of companies in the same manner that this State has already done in life companies? A. I am not really familiar with the life insurance legislation. My understanding is ——

Q. (Interrupting.) Well, the principle of it is that it puts a limit on the amount life insurance companies can spend in running the business? A. It limits the total expense, but does not specify how it shall be expended.

Q. That is the idea? A. I am not lawyer enough to say whether that would be constitutional or not.

Q. Well, assuming that the other legislation is, I asked if we could safely make the same as to fire insurance? A. I could not say whether it would be constitutional, but if it would be constitutional, I think the tendency of legislation of that kind would be to reduce the cost of doing the business, and, therefore, to reduce the rates.

Q. It is a fact, is it not, that the companies are rather in a helpless condition before the great body of local agents on this subject? A. The attitude of the local agents, so far as I have seen it expressed, is against any such regulation.

Q. Yes. Well, that is one of the main things that the meeting of the officers of the companies of the Western Union and Eastern Union discuss? That is what they are there for? To work out this expense problem between them? A. That expense problem is always before us.

Q. And it is something you are getting abused for by the in-

surance commissioners, and insuring public and legislatures, and this, that and the other thing? A. I think they have been criticized for it.

Q. Yes. I should have said criticized. The complaint is going around that the expenses are too high, and you are not able to do something about it, and you are not able to succeed by yourselves, are you? A. We have been trying very hard to devise a plan under which we could reduce the commissions in just those six cities I mentioned a while ago, where commissions are open, so far as the Western Union is concerned.

Q. What are those six cities? A. Chicago, St. Louis, Cleveland, Cincinnati, Louisville and Milwaukee, and we have not been able to hit upon any plan. The commissions are rather extravagant there, that is, some companies pay rather extravagant commissions. Two of these cities are in a State where we cannot agree, Cleveland and Cincinnati. The law forbids us in that way.

Q. Well, assuming that a law would be helpful, if it could apply all over the country, limiting commissions, or limiting expenses, do you think that if the State of New York legislated, that there should not be paid for business placed or for insurance written on property in this State, more than a certain maximum commission, to apply to domestic and foreign companies alike, that that would be at all helpful, either in leading the way for other States to follow New York's example, or would it be helpful in any way for the companies as a handle to reduce expenses over the rest of the country? A. I think it would.

Q. Of course, you can see that New York could not make such a rule as that for its own companies, where they do business all over, and leave them exposed to the competition of companies that do not have to comply with that law, because they were not New York State companies? A. It would certainly have that tendency. At the present time, the average expense of all fire insurance companies is rising; each year it is higher, taking the average of all the companies.

Q. Do you know any particular reason why that is so? A. I think taxes are increasing. I think that the average rate is going down, and fixed charges probably are not going down, and that

would have a tendency to raise the percentage of expense. There is the best evidence in the world that there is not any trust in the business.

Q. That there is not any what? A. That there is not any trust in this business. If there were you would see that expense percentage going down immediately, because that is the first thing a trust does, as I understand it.

Q. That is, cut down its expenses. If, for any reason, rates are going down, it does not necessarily follow that the expense ratio should stay the same. The expense ratio should go up as the rates go down, very likely, wouldn't it? A. That would be very apt to be the result of the reduced rate because of the fixed charges; that is office rent, salaries, stationery and postage and everything else. If your income is going down, and these charges that you cannot reduce remain stationary, then your average expense has got to go up.

Q. Do you know of any, or do you think of any damage that might move to the companies, if such a law as that were put on the statute books; simply restricting it to business written in this State? A. Well, those things are so far reaching that it is very hard to say what the result might be. At first glance, I do not see that companies need to apprehend any damage from it.

Q. Of course, if you had a law on the books restricting their general expense, I can see that the expense for inspections might go down under that general rule, and the commissions still keep on going up, and your usefulness to the public might be impaired by it. I take it that the more the company *bona fidedly* puts into its inspection an engineering department, the more good is that company to the public? A. Exactly.

Q. On the same theory, that is where the large expense of the mill mutuals is. And the more money that is put into commissions, you cannot bar the fact that the agent spends his money here where he earns it, and that the commissions paid to agents are a loss, substantially, to the fellow who is paying the rates? A. He pays the commissions.

Q. Yes. He pays the commissions? A. As well as the other expenses.

Q. Yes. And if the commissions were reduced, his rate would

eventually go down, if the companies would deal in good faith with the public? A. Competition would undoubtedly bring that about.

Q. Mr. Markham, of St. Louis, expressed the idea that he thought one trouble of the companies was that they were always competing with each other to get agents. That they would go into a town where they ought to have one or two agents, and they would have appointed five or six. What do you think about that? A. That is right.

Q. Do you think it would be safe legislation for this State to say to these companies, "In every city you shall have but one agent. You may hire all the solicitors you want, but have one agent to whom you should pay commissions?" A. For all companies?

Q. No, no; for one company; for each New York State company? A. I do not quite understand your reference to Mr. Markham's statement. What he had in mind was the large cities, I think, like St. Louis, where he lives, which is the shining example of the most outrageous abuse ——

Q. (Interrupting.) Shining example of what? A. (Continuing.) Of the most outrageous abuse of that appointment of multiple agencies. There are companies that have a large number of them; forty or fifty.

Q. And that condition has arisen rather naturally in this competition? A. But in the average small town a company ought not to have more than one agent, and a company very seldom has more than one agent.

Q. St. Louis is one of those centers where you have stated commissions have run up until they are very excessive? A. Yes.

Q. Is there anything this State can do to its companies to make them conform to proper practices without exposing them to a condition of competition from out of State companies that would cripple them in that field? A. The only thing that I can think of to regulate that would be to limit the commissions they could pay. That is simply a case of paying extravagant commissions for business. These multiple agencies, the large number of agencies — they do necessarily a small business, each of them for each company, and unless they did get a very large commission there would be nothing in it.

Q. It is a fact, is it not — you know this better than I do — that there are a large lot of insurance companies not admitted to the State of New York doing business in the middle West? A. I do not think there are many.

Q. Do you suppose if this State passed a law, as they did in life insurance, which applied not only to domestic but foreign companies doing business in this State, that there would be many withdrawals of companies, simply because they would object to this uniform commission law which the State might enact? A. I do not see why it should have that effect. They would be at no disadvantage that I can see.

Q. Well, but they would be at a disadvantage if they stayed out of the State of New York and competed for business out there, if they could pay a higher commission than we permitted our companies to pay? A. There would be very few companies of consequence that would be willing to abandon so important a field as New York State.

Q. Then you think as a practical matter, if this Committee should make up its mind that it wanted to violate State comity to that extent, and make it a law applying to all companies doing business in this State, and apply to the companies doing business all over the country, fixing this maximum commission problem, that it might be helpful to the whole situation? A. I think it would have a tendency to help the whole situation throughout the country. You say, "maximum commission." Didn't you mean maximum expense?

Q. Either one of them. I am frank to say I regard the limitation on that maximum expense as a danger, because anything that will limit the ability of companies to take care of their risks and inspect them closely, is dangerous legislation? A. Yes.

Q. Where, of course, the commission is the item that is running up apparently, and the companies cannot control it.

Judge BRUCE: I see you got the idea that I thought the insurance situation in New York was in the form of a trust. I did not have that in mind; that there was any combination of companies for pooling of business, or anything of that kind. My idea was that they had effected a monopoly by the combination of companies, referring to the regulation of rates.

By Mr. Hurrell:

Q. I would like to ask you, in the time remaining before lunch, what you think of the idea which you may have noticed was expressed the other day on the stand, that a great many companies are writing excessive risks in the congested valued districts in large cities, and that the State should look to the solvency of these companies more closely by restricting their underwriting in congested valued districts. What do you think of that theory? A. After the Chicago fire — let me answer this in a rambling kind of way.

Q. Yes, your own way. A. The State of Illinois, in its annual reports that it required of all of us, included the question, "What is the total amount of your liability in the congested districts of Chicago," and then they proceeded to define the congested district.

Q. That is, the department laid down the congested district and asked each company what it had at risk there? A. That is bounded by the lake and river and 12th street, or Harrison street, or whatever it was, and for many years that question appeared in the Iliinois reports, and here perhaps six or eight years ago some Chicago underwriters got after the department, and they said, "Now, what folly that question is; utter nonsense; this district you have laid out and confined as a congested district, and want to know about, and that is where the large values are, is probably less liable, less subject to a conflagration than any part of the city of Chicago," and that has been improving every day since. Every time I go there I see some new fireproof building, and I think that is measurably true of all the larger cities. I think that is true of New York; that where the large values are, the construction, and the protection of every kind, and the watchfulness of the housekeeper, are very much better than they are anywheres else. I can put my finger on about a dozen spots in the city of Chicago, or Cincinnati, or St. Louis, that I consider real fire breeders, and they are here. I know them in New York, but that is not where the values are. And, therefore, I think that that question of aggregate liability in what is commonly called a congested district of the city, is one that needs to be looked into

pretty carefully before you draw any conclusion. If you find that the buildings are largely fireproof, and there is very little danger of fire spreading, as there is usually the case, nowadays, you would be perfectly safe in letting the companies write all they please.

By Judge BRUCE:

Q. Well, do you use "congested districts," as synonymous with "conflagration districts?" A. No, I do not.

Q. What Mr. Hurrell had in mind was perhaps in conflagration districts? A. Well, there may be a dozen conflagration districts in a city. There are. They are here. Brooklyn has got them, but, as a rule, you will find that that is not where the big values are, and that is not where the companies have these large liabilities you have been referring to.

Chairman MERRITT: That is not the place where they want the rates adjusted?

Mr. HURRELL: No.

By Mr. HURRELL:

Q. Would you say, from your experience, that in the anti-compact States, where the schedule has not been applied uniformly, that the fire hazard in those States has increased? In other words, does a state of combination tend to automatically reduce the fire hazard of a given community? A. Anti-compact State where the schedule ——

Q. (Interrupting.) That is in anti-compact States, I understand that the situation is you cannot use the same rates? A. You cannot agree upon rates.

Q. Cannot agree upon them, and that necessarily leads to lack of uniformity? A. Yes.

Q. Now, does that situation tend to increase fires, as compared with the situation where the schedule is applied uniformly, and where every company can use the same schedule, giving the same credits and charging the same charges? A. I think not, because now almost all of the property in such States is really rated under a schedule by these independent publishers, and the natural de-

sire of the assured there, as everywhere else, is to get his rate down, and they are getting educated to the way that can be done, and that is by the correction of the facts that are charged for.

By Chairman MERRITT:

Q. In other words, they have anti-compact and compact at the same time? A. They have anti-compact, but they have all the benefits of the educational facilities that they would enjoy under a compact law.

Q. It results in a general agreement or uniformity of practice? A. Yes; a uniformity of practice is about what the result is; substantially that.

Q. You were speaking of the fact that the Western Union had ceased to be able to exercise some of its original activities by reason of the various rates in statutes in the States regarding agreement on forms and agreement on compact propositions, and all that. Suppose the State were to take the other end of this general proposal, and insist — instead of setting up a lot of things that insurance people must not do, take the other end of it and provide for things they should do, and make them agree on rates; make them combine to that extent; regulate their commissions of brokers and agents, and provide anti-rebate legislation which would be more or less effective, depending somewhat, as was testified this morning, — I think people would regard a law a good deal more seriously than they will a uniform agreement, or advisory counsel, or things of that sort. Why would not that be the way to deal with this thing? Let them agree. Make them agree? A. Well, that means State rating.

Q. Well, it might mean that. I think the Judge covered the question of what the State's right is. I believe the State has the right to have a board of review if it permits a combination. The wisdom of exercising it is purely a practical question. We all have rights that we do not exercise sometimes, which are pretty valuable too, and which we might want to exercise. Now, the degree to which the right will be exercised is a question of judgment. Following that along, it seems to me that all the insurance people agree who were brought before this Committee, that the interests of the insured is best served by a compact system of rating, by an

agreement on methods, and if that is true, if they are not simply preventing their end of it, from the companies' standpoint, as a purpose of making more money, but if it does help the assured, why the State ought to take care of that view of it, and do whatever it can do and compel all persons in the business to follow the best practices, as evidenced by the practice of the best companies, although sometimes purely theory. That is where we get in danger; when we get to dealing with pure theory? A. Yes.

Q. But whether we could not reach a stage where everybody would concede that the State should make rates, if it had a superior information, what that might grow into, I do not know. It is pretty far reaching, but you take this point you make about not being able to confer with officers of other companies as to the form in which you would do business; now, that is perfect nonsense? A. Absolutely.

Q. There is no sense in any such proposition as that at all, unless insurance companies are really the enemies of the public, and, of course, the minute you get any property, you discover they are not. You have got to have them. We could compel or provide for uniformity of contracts. Why, to a certain extent —— A. (Interupting.) You do that.

Q. We should do everything we can, too, I should think, give the companies the opportunity to confer on all these questions. Now, their final acts as a result of their conference, why I think it is a pretty fair conclusion that if we can do some of these affirmative things which are of value to the business, we have got to offset what we would do in the way of regulation or interference, or excess trouble in the way of expense, which the assured has got to pay; all of us? A. Oh, yes.

Q. We have got to provide some reciprocal condition, and what I have been trying to find out from insurance men as much as anything, is what, if anything, they can suggest which the State can give to the companies in the way of any privilege, or right, power, benefit, franchise, power to act, power to confer, power to make uniform conditions, obligations to do that, in return for the right to establish a board of review, at least, because otherwise — I am not much of a lawyer, but I do not believe in this State any attempt to regulate them at all would be worth while unless

you can discover in the law as it now is, or in the law as it may be, a reciprocal advantage to the companies which shall measure fairly what regulation means. You do not want that at all if it is going to cost the assured more money. As far as we are concerned on this Committee, I speak generally, we do not want to be in any way a part of any act on the part of the State, or responsible for it, which may turn out to cost people; that they have to pay more than it costs them now, because that is the final end of it. If you think of anything of that sort, why we would be very glad to have your idea about it? A. There are just two points I would like to suggest to the Committee's consideration; one is, a uniform building code for use throughout the State. Now, that is not what we have in my State. We have not got it, except some of the cities.

Q. Do you know of any States that have it? A. I do not know of any States, I know that a number of States have adopted it for local use. Another is the fire marshal law, such as we have in Massachusetts and Ohio, and some other States, which has operated very well indeed.

By Judge BRUCE:

Q. And which State has the most effective law, in your experience? A. Well, I think that is an Ohio State law. Massachusetts, I think, was first. Now, there is another thing that makes it a little bit radical, and I hesitate a little bit to offer it; but here is the precedent for it: In the city of New York there is an ordinance which provides that the occupant or owner of any building in which a chimney fire occurs, and the fire department is called out, shall be penalized five dollars. Now, that is based on good, wholesome, common sense rule that that fire at least was the result of somebody's negligence and carelessness and ought not to have occurred, and the fire department ought not to have had to go out, and somebody is going to pay five dollars for it to see that is does not occur again.

By Senator WAGNER:

Q. Where is that ordinance? A. That is a local ordinance in New York city, and the fire department collects the five dollars,

too. In Mexico, where we are doing business, we are not allowed to pay a loss until after the authorities have investigated that fire and satisfied themselves that its origin was not due to any preventable cause, or any cause that the owner or the assured could have prevented, and, I think, there is a law in France that is very similar. I think Germany goes further, and may arrest them and make them show affirmatively that it was not their fault.

By Chairman MERRITT:

Q. They are supposed to have set it on fire there? A. The assumption is that he should have set it on fire, and he is also responsible for damage done to his neighbor. Of course, that is going further than this, but I was speaking of this ordinance of New York city in regard to the chimney fire. I think that is very proper and reaches the first step in the direction those foreign countries have gone, and I would like very much if the Committee would turn it over in their minds, and probably something will come of it.

By Judge BRUCE:

Q. What are your rates in Mexico as compared with adjacent territory in the United States? A. Really I do not know. I really cannot say.

Mr. HURRELL: Would you like Mr. Buswell any further?

Chairman MERRITT: If he can turn this over in his mind, and make further suggestions, I would like to have him again. Can you come back after lunch, Mr. Buswell?

The WITNESS: I can, if I can do any good.

Chairman MERRITT: We will not detain you long.

The Committee will stand adjourned until two o'clock.

Recess until 2 P. M.

AFTER RECESS.

Chairman MERRITT: The Committee will now come to order.

The WITNESS: In answer to the invitation which you gave me to make a suggestion, I wish to say the suggestion was simply this, the only one I think of advisable to make; I hope the report of the Committee will favor or express a favorable opinion of the principle of schedule rating.

By Mr. HURRELL:

Q. What you call analytical rating? A. Analytical rating. It bases specific charges for specific effects, and further that the owner of the property ought in every case to have the opportunity to know how his rate is made up, what defects he is being charged for, in order that he could, if he chooses, correct them and get his rate.

By Chairman MERRITT:

Q. How much additional work would it be to annex to the policy a copy of the schedule on which the rating was made? A. I do not think it is practicable.

Q. That is what I mean, what I wanted to get at. A. I don't think it would be practicable. The brokers as a matter of fact in this city are in the possession of the makeup of the rates of property. The customer can get it here by asking for it just as he can throughout the country. I think any rater would give it to you, show you how he made up the rate, and really it would encourage him and show how to get his rate down, and that is the principle on which all our rates are made now, and I think generally it has the approval of the public authorities and the companies are all enthusiastically in favor of it, and we believe we see some good results from it.

Q. It has the appearance of logic anyhow? A. We think it is scientific.

Q. You think it is more scientific than the other system at any time? A. We know it is more scientific.

Q. And it results in fair dealing? A. We believe it does, that is the purpose of it.

By Judge BRUCE:

Q. That does not relate to the base rate? A. No, the base rate is what is called the residuum of the unanalyzed hazards.

Q. That is very good, that is the first time we have had it defined. We have had it defined before as the result of the exercise of the sixth sense or the result of the evolution of the inner consciousness? A. There must be a base rate, and that is what remains after every specific defect that we can pick out and charge for and itemize has been disposed of, and then we have the rest of it, the inherent hazard that we do not identify.

By Mr. HURRELL:

Q. Mr. Buswell, the same companies in the various parts of the country use a different system of schedule rating, don't they? A. They use different schedules, yes, they do; different systems.

Q. As long as the same companies in various organizations throughout the country use the analytical schedule in the Middle West and the mercantile schedule here, and all the other variety of schedules, and the hope is felt that sometime the companies themselves will get down to a basis where they will use the same kind of schedule wherever they do business; that is largely a fault of the companies, is it not, that they are not more uniform throughout in their action? A. Yes, it is. I can answer that only by saying that schedule rating is in its infancy; it is a matter of not a great many years, and it is in the process of evolution. The analytical system here is on a principle somewhat different from the others in this, that its charges for the defects are a percentage of the basis, not a flat charge, that is so based, and then for an unprotected opening they charge such a percentage, that is where it differs from other systems, and those who believe in it believe that that will eventually be the system, but as I say, the system of schedule rating is but in its infancy and in a process of evolution.

Q. If a man has a base rate, and then he has some fire extinguishing appliance or some extra fire protection, the system they have here in New York, they allow him a credit for that? A. A base rate implies a standard risk with standard protection, and in his scale of charges there will be a charge for the lack of those things, and then when he applies them that charge is taken off.

By Chairman MERRITT:

Q. In other words, your base rate is made a standard rate? A. Yes, sir.

Q. That takes into consideration all those questions of sprinklers and various other devices? A. Sprinklered risks are in a class by themselves.

By Judge BRUCE:

Q. Is the sprinklered risk proposition as much in vogue in the part of the West where you have had your experience —— A. It is extending very rapidly there; large valued risks, manufacturing risks, are being sprinklered very often.

By Mr. HURRELL:

Q. Do you think the schedule system of rating will eventually apply to the preferred business; take a dwelling house, for instance, that is rated now at what is called a minimum rate? A. I doubt that very much.

Q. Why is that, because of the smallness of the premium? A. Yes, and partly because the differences between two similarly constructed unexposed dwellings are very slight. We assume dwelling occupancy is practically the same anywhere, and if it is alike is should be practically the same.

Q. Of course, if you concede the virtues of the schedule for business risks then you have got a condition where there is no incentive to the ordinary householder to improve his risk by reason of any credits he might get under the schedule? A. I presume the assumption is that the householder will improve his risk on general principles and because of a desire to have it as nearly perfect as he can get it as a fire hazard.

By Chairman MERRITT:

Q. And that the few people who would ever do anything to a house are so small in number in the vast aggregate amount that they are negligible? A. Yes, sir.

ARTHUR M. PECK, called as a witness, being duly sworn, testified as follows:

By Mr. HURRELL:

Q. Where do you live, Mr. Peck? A. Sand Lake, Rensselaer county.

Q. What is your business? A. Secretary and treasurer of the Co-operative Fire Insurance Company.

Q. What is the name of the company? A. The Rensselaer County Mutual Fire Insurance Company.

Q. How long have you been secretary and treasurer of that company? A. For nearly thirty-three years.

Q. As long as the company has been in existence? A. Yes.

Q. Did you help organize it? A. Yes.

Q. That is a species of a pure mutual company, is it not? A. Yes, sir.

Q. Each member pays something for his insurance and his liability is unlimited on that policy? A. Yes, sir.

Q. In case other members of the company sustain great loss? A. Yes.

Q. Now, how long has your company and the class of companies to which it belongs been under the supervision of the insurance department? A. Only since 1909, last year.

Q. That is, you are one of the companies that the law which was passed at the last session of the Legislature will affect? A. Yes, sir.

Q. And you will get a certificate from the department for the first time in 1911? A. Yes, sir.

Q. That is true, is it not? A. Yes, sir.

Q. How much insurance have you in force now; what is the amount at risk? A. $7,000,000, approximately.

Q. And in how many counties is that distributed? A. Only one county.

Q. In Rensselaer county? A. Yes.

Q. Your company belongs to an organization of similar companies, does it? A. Yes.

Q. And the association to which it belongs was one of the associations that co-operated with the insurance department in the

passage of that law last year? A. Well, I think so, although not to my knowledge; I have heard so.

Q. You have a specific complaint or specific suggestion to make to this Committee in reference to that law, have you not? A. Yes, sir.

Q. Will you kindly state what it is. By the way, are you an advanced premium company? A. No, sir.

Q. You are an assessment company? A. Yes, an assessment company.

Q. Just describe to the Committee before you go into that matter, please, how you do your business; for instance, you have a home office at Sand Lake? A. Yes, sir. We are governed by a board of eleven directors. The eleven directors elect from their number a president, vice-president, secretary and treasurer. Our by-laws are so framed that one person can act as secretary and treasurer.

Q. Do the members elect the directors? A. Yes, sir.

Q. The members being the persons insured? A. Yes, sir.

Q. They elect the directors at an annual meeting? A. At an annual meeting; and the president has the power, according to our by-laws, to appoint an executive committee consisting of himself, the vice-president, secretary and one director, four members, who, in the absence or inability of convening a full board of directors, can transact the business the same as the full board of directors. They really empower the executive committee to do the work.

Q. How many members have you, approximately? A. Four thousand.

Q. Just describe to the Committee how you place a risk, which means taking in a new member each time you place a risk, does it not? A. The general agent does the principal amount of work, but he has sub-agents who inspects every risk and visits it and writes or assists the member to write the application for insurance, which is sent in to the office and approved by our manager.

Q. Now, assuming you have an application from a person who desires insurance in your company, and the agent brings it to the committee, and it is approved and the policy is issued, do you collect a premium from him at once? A. No, what we term as a membership fee.

Q. How much is that in your company? A. That is one-tenth of one per cent, and $1.50 as a policy or survey fee. The $1.50 goes to the agent; the one-tenth of one per cent goes into the treasury of the company to pay running expenses. For our losses we make an annual assessment of whatever the aggregate calls for.

Q. You spread it? A. Spread it, according to classification of the property.

Q. Now, what is the highest loss you have ever sustained in any one year since you have been connected with the company? A. I think $3,100.

By Chairman MERRITT:

Q. The largest single loss? A. The largest single loss.

By Mr. HURRELL:

Q. What is the largest annual loss that you have ever sustained? A. I think the annual loss has aggregated as high as between eighteen and nineteen thousand dollars.

Q. Now, do you have any surplus or any funds on hand throughout the year? A. No, sir.

Q. Did you have about 4,000 members then, when that eighteen or nineteen thousand dollars loss occurred? A. Probably not over, well, from 3,000 to 3,500 members at that time.

Q. And I suppose you would be unable to state about what the assessment was on each individual because you have mentioned that you have different classes? A. In the first class it was $3.60 per thousand.

Q. What was the first class, what class of property do you designate —— A. Village, residences and farming dwellings principally.

Q. Do you know how that rate of $3.60 a thousand compared with the then existing stock rate? A. Well, it exceeded it a trifle; that was only one instance in thirty-three years' experience.

Q. So that no false deductions will be drawn, what is the average annual loss that you have had since you have been in business? A. The cost of insuring $1,000 for three years on protected residential property has been $5.75 per thousand for three years.

Q. What do we understand by protected dwellings; a village where they have a fire department? A. Where they have a fire department; on unprotected dwellings for three years $6.80; on farm outbuildings unprotected $10.20 for three years; on protected mercantile risks it has been $5.75 per thousand.

Q. For three years? A. For one year.

Q. That is five and three-quarter cents? A. $5.75 per thousand for one year. Mercantile risks unprotected $7.20. On manufacturing risks for one year $9.60. On hotel property protected for one year per thousand $7.68. On hotel property unprotected per thousand $9.60 for one year. That includes all.

Q. You have been reading there from a classification? A. Different classes.

Q. You keep account of the losses in the various classes that you insure? A. Yes.

Q. And these are the results you have given of over thirty-three years? A. Yes, sir, that is approximately; I could not give it to you — we have had twenty-three assessments in thirty-three years; some years it was nothing.

Q. How do these figures compare with the average stock rate? Did you ever institute a comparison for the same period of time? A. So far as my knowledge goes, the stock rates on village residential property is about $7.50 per year; in Rensselaer county I am speaking of; on farm dwellings it is about $10 for three years. On farm outbuildings $15 per thousand for three years. On mercantile risks it varies from $15 to $18 per thousand per year. And on hotel property and manufacturing risks, I speak more particularly of hotel property, it is from $25 to $30 per thousand per year.

Q. That is to say, your rates, as I remember them as you read them, are about one-half of those stock rates, or what is the percentage? A. On the mercantile and manufacturing and hotel property it is less than one-half.

Q. And if there are no losses during the year in your company in Rensselaer county then beyond paying the policy fee in the first instance the policy holder is protected and pays no additional amounts of money? A. No, sir.

Q. And do you figure the expense of conducting the busi-

ness comes out of that one-tenth of one per cent? A. Yes, practically.

Q. That covers it? A. Yes, sir.

Q. Now, coming back to the specific suggestion that I asked you to make to the Committee as to whether or not you thought this law of 1910 did your company an injustice or hampered it in any way, if such is the fact will you kindly state it? A. That law reads that such corporations may issue policies of insurance against any loss or damage to detached dwellings, barns, hop houses, cheese factories, creameries, school buildings, and other buildings, and the contents of any such building, together with the live stock owned on the premises by insured, provided that nothing herein contained shall authorize such corporation to issue policies on buildings used for hotel, mercantile or manufacturing purposes, and provided further that no such policy shall be issued — well, we don't issue a policy for more than $4,000 anyway. The law limits us to $7,000, but our by-laws limit us to $4,000.

Q. So that the $7,000 limit is satisfactory to your company? A. Oh, certainly. Now, that prohibits us insuring what we have been carrying, on approximately $200,000 of mercantile property, $72,000 of manufacturing, and $100,000 on hotel property.

Q. That is about $370,000 out of your $7,000,000? A. Yes, sir.

Q. It cuts you out of? A. Yes, sir.

Q. And what has your experience been in that particular class,— that is, I suppose, that is the reason for your objection is, that you would ordinarily write that? A. Yes.

Q. Can you give the Committee concretely in amounts, how much have you ever lost in the aggregate? A. These classes of property in the thirty-three years haven't lost to exceed $20,000, and they are paying an income into the company from $2,500 to $3,000 at every assessment.

Q. Do you know whether the other companies, that is, the other assessment co-operative companies, have any objection to that section 266, as it is enacted? A. I haven't learned so, only from one company in our county, which is a town company, town of Brunswick, Rensselaer county, also feels aggrieved the same

as we do, for they are carrying the same classes of property that we are.

Q. How many counties does this law give you permission to go into? A. We are only incorporated in that one county.

Q. Is there not a provision whereby you can extend your business into other counties? A. Yes, into five counties, if we desire, the way I define this law.

Judge BRUCE: Have you ever had any difficulty in collecting any assessments?

The WITNESS: Very little.

Judge BRUCE: Any litigation?

The WITNESS: Yes, sir; we have, at the end of every assessment year usually from four to ten members that we have to commence actions against to collect their assessments.

Mr. HURRELL: Sue for their premiums?

The WITNESS: Yes, sir.

By Judge BRUCE:

Q. On the ground that they contest their liability, or neglect to pay, simply? A. Simply neglect to pay.

Q. Have you had any where they contested their liability? A. No, sir; they always come up to the rack and settle whenever sued.

Q. What do you do with a member of that kind, when you have to begin an action in order to collect the assessment? A. Why, if they come up and pay, sometimes we exclude them from the company, and sometimes we carry them on, if they are desirable members and make a satisfactory explanation why the delay occurred.

Q. What have your losses been from uncollected premiums and assessments? A. In any one year?

Q. Yes, that you didn't finally collect; I mean absolute losses? A. Well, they would vary from twenty-five dollars to fifty dollars.

By Mr. HURRELL:

Q. Can you write in any cities in the county? A. Yes, sir.

Q. Do you write in any? A. Some in the city of Troy, prin-

cipally in the suburbs of the city, residential, but very little mercantile, and no hotels.

Q. Of course, I assume there must have been a reason for excluding that specific class of property; if that amendment were put in there, so you could insure all classes of mercantile risks, there would be nothing to prevent you going right into the conflagration district of the city of Troy, if, purchance, you had officers that were not as careful as the present officers, would there? A. I presume not. We have never done that. Principally our officers have been very conservative and restricted us, and the agents, in insuring such property in the congested parts of the city.

Q. Are there many of your class of companies that write in cities? A. Well, I am unable to state how many.

Q. Do you know of any others that do write in cities? A. I could not name any just at this time that I know of.

Q. Would this law be satisfactory to your company if the mercantile risks were not specifically excluded, but merely mercantile risks in cities? A. We would be satisfied with that. What we care for principally is our country merchants.

Q. And country hotels? A. Yes. What seems conflicting to me in the law, if you will permit me to bring that point to your notice — this law permits us to insure hop houses, cheese factories, and creameries, and the two latter, we claim, are manufacturing properties. Where does the limit begin or stop, when it forbids us insuring any manufacturing properties?

Q. You find that hop houses, cheese factories and creameries are hazardous classes of property? A. I think they are just as hazardous, or more so, than the mercantile property. We rate them one rate higher. They are run by gasoline or steam power, and we are very careful not to insure any risks that are run by gasoline or steam power. Our manufacturing property, consists principally of what we term blacksmith or repair shops, and grist mills, and we perhaps have half a dozen, not to exceed half a dozen, shirt shops run by water power.

Q. You issue the standard policy, do you? A. No. We have simply a policy of our own, which was compiled by our own people, similar to many of the co-operative companies.

Q. All the conditions of your by-laws are printed on the policy, are they? A. They are, yes, sir.

(Witness produces a form of policy.)

Mr. HURRELL: I offer it in evidence.

(Paper received in evidence and marked Exhibit R-1.)

Q. Can you state, without going into a minute discussion of that policy, if it is as carefully drawn as a standard policy is, so as to protect your company against fraud, undue hazards that the assured can correct himself? A. I can't really say; I haven't studied up the standard policy particularly lately, at least, recently.

Q. This new law gives the Superintendent of Insurance power to approve the policy form for these companies, does it not? A. I think it does.

Q. Do you know whether, substantially, he is working over the standard form, to apply the conditions of each company? A. I had an interview, I think, with the State Superintendent along in August, and he said there would be compiled a uniform blanket policy, which compared with the standard policy, and in fact, there was to be a new standard policy filed; and these would be issued to us along about November; but we haven't seen anything of them as yet.

Q. Of course, that wouldn't apply to any of your contracts already in force? A. No, sir.

By Senator ALLEN:

Q. What kind of property is included in the first class, which you list as the first class? A. Village residences, barns and their contents, and farm dwellings.

Q. What rate was assessed against the first class property last year? A. $2.40 per thousand.

Q. Can you tell what the rate would have been if you had not insured the property that you are not permitted to insure under the operation of this law that was passed last session? A. I should, perhaps, have to go a little into detail to explain that. The third and fourth class property of our company have paid in

an income of $2,500 to $3,000 annually for thirty years,— I would put it, and have had losses of $20,000. Consequently, in seven years they would have paid all of their losses, and the 16 assessments which have taken place would be applied towards reducing the percentage of rates on other classes of property, particularly farm barns, which have come to be very hazardous of late years. I can't tell you what the percentage would have been this year, had we not had the help, but instead of $2.40, it would certainly have been $3.00, to make up our losses.

Q. That $2.40 is one year's assessment? A. Yes, sir. Two years ago it was only $2.00.

Q. Do you know what the practice is in Rensselaer county in regard to stock companies insuring farm property; whether they consider it desirable or not? A. They do not. They have often written us giving us the names of farmers who applied to them for insurance, and they have referred them to us, claiming they did not care for that class of property.

Q. Then the operation of the law is such that you are compelled to insure the more hazardous risks, and are precluded from insuring the less hazardous risks? A. Yes, sir.

By Judge BRUCE:

Q. Why have farm barns become more hazardous in late years, is that due to any general cause? A. I can't explain it. But when we first organized this company, we ran fifteen years without a lightning loss practically, and since that time we have had practically ten to fifteen lightning losses each year since. I can't explain it.

Judge BRUCE: Anything more, Mr. Chairman?

Chairman MERRITT: No.

Mr. HURRELL: That is all. Mr. Vary.

W. H. VARY, called and sworn as a witness, testified as follows:

By Mr. HURRELL:

Q. Where do you reside, Mr. Vary? A. Watertown.

Q. What is your business? A. I am secretary of an insurance company.

Q. What is the name of it? A. Jefferson County Patrons' Fire Relief Association.

Q. It is a mutual co-operative company? A. It is.

Q. How long has it been in existence? A. Since 1877.

Q. Have you been identified with the company since its organization? A. No, sir.

Q. How long have you been with it? A. Seventeen years, the first of January.

Q. Are you an officer of any association of assessment companies in this State? A. Yes, sir.

Q. What office do you hold? A. I am president of the Central Organization.

Q. What is the full name of that Central Assessment Organization? A. New York State Central Organization of Co-operative Insurance.

Q. Is your company an advanced premium company or an assessment company? A. Assessment company.

Q. What counties does it have jurisdiction over? A. Jefferson and Lewis.

Q. Two counties? A. Yes.

Q. How much has it at risk; what is the amount of insurance at force in your company? A. Something over $15,000,000.

Q. Have you any comparison as between your rates and the rates of stock companies in your field with you? A. Well, for the last five years it has not cost us much more than half what it has with the stock companies. I think in the years I have been there we got our insurance for five years at the cost of three years in the stock company. I think on the average, as near as I can say, I haven't figured it exactly lately.

Q. It is about one-half to-day, I understand it? A. It has, for the last three or four years, cost about half.

Q. Does your company do business substantially the same way that Mr. Peck's company does? A. Well, similar, yes.

Q. Are there any cities of any size it operates in? A. We have a very little in the city of Watertown, on the outskirts. Some members move in there off their farms, why, we carry their insurance, if it isn't any business risk. We don't insure any business risks.

Q. You have substantially about the same kind of property insured that Rensselaer county has insured? A. We don't insure any business risks at all.

Q. You take no business risks at all? A. No, sir.

Q. Any country stores? A. No, sir.

Q. No hotels, either? A. No, sir.

Q. Any manufacturing establishments? A. No, sir.

Q. You have heard Mr. Peck testify as to how this law has hampered his company. Do you know why the law was framed as it is? A. In regard to excluding those?

Q. Yes. A. Well, the superintendent took the position that they were more hazardous than other kinds of property; I think that was the reason. Of course, I didn't have very much to do about that, not having any experience with it, and it didn't affect us. There was a committee of seven there from the Central Organization, going over the matter with Mr. Hotchkiss.

Q. How many companies are there in the Central Organization? A. About 120.

Q. From your experience in that organization, and from your knowledge of the members on that committee, would you say that the ordinary company of this class declined to write mercantile risks? A. How is that?

Q. Would you say that the ordinary company of this class of insurance companies declined to write mercantile risks before this law became effective? A. I don't know about that.

Q. You don't know whether Rensselaer county is an exception, to the usual rule, or not? A. No, I do not.

Q. Why did your company refuse to take the kind of property mentioned as country stores, hotels, etc.? A. I don't know as I could tell you. Those are excluded by our by-laws, and was when I became secretary, and years before that.

Q. Do you think it was because the consensus of opinion was because these were hazardous classes, or extra hazardous classes, compared with the other property? A. Yes, ours is a grange company, and made up of grange members. Of course, they haven't such property to insure, that is, in many instances.

Q. Well, of course, I presume they might have country stores, they would be liable to have? A. There might be a few instances, but not many.

Q. What do you think the attitude of the Central Organization would be if an amendment were proposed to this law permitting your class of companies to write mercantile risks? A. I don't know.

By Chairman MERRITT:

Q. Your company was organized to do a specific, certain kind of business? A. Yes.

Q. And it don't do anything else? A. It don't do anything else.

Q. It don't have any classification of any certain thing, they are all alike? A. Well, we have two classes for farm rates; there is the owner, and the tenant risk.

Q. Do you charge the owner a little more or a little less? A. A little less, if he occupies the building himself, than we do if he has a tenant. The assessments are all made *pro rata*.

Q. What is your custom as to the percentage of insurance you take, that is, how near full value do you write? A. Two-thirds; we don't intend to exceed two-thirds of value on any property.

Q. You have practically got a co-insurance provision, because you won't carry but two-thirds of value? A. Yes.

Q. How near does that turn out, in your judgment, to be the case when you have a loss? A. Well, sometimes we think we have to pay rather more than two-thirds; it is about fair, I guess.

Q. Do your people, when they take a risk, take into consideration the assessed value of the property? A. No, I don't think they do.

Q. They don't bother about that? A. No; I don't think it would be a good thing to go by in many instances.

Q. You haven't that degree of confidence in the ordinary assessor that you would take his judgment? A. No.

By Judge BRUCE:

Q. Now, what has your experience been with reference to the collection of assessments? A. We have very little trouble about that; very little.

Q. Has it brought on much litigation? A. No, I think we have only brought action against one or two in seventeen years.

Q. What is the largest loss that you have sustained in any one year? A. In one year?

Q. Yes. A. Between twenty-seven and thirty thousand dollars.

Q. What has your largest assessment been? A. Two dollars a thousand.

Q. That is the largest? A. That is the largest since I have been there.

Q. And many years, I suppose, it has been very much less than that? A. Yes; in the seventeen assessments I have made, eleven of them have been only one dollar, three of them two dollars and four a dollar and a half.

Q. How is your businesss done; do you have many agents? A. No, sir.

Q. Is it all done at the home office? A. You might call them agents; there is a director of the company in each grange, and if any one wants to be insured in that company he must go to that director and get him to examine his property and sign a written application.

Q. What fees does he pay? A. He pays the agent a dollar.

Q. Is that the only fee he has to pay? A. No, he has to pay the company in addition to that. This is what he pays the director for coming and making a survey of his property. He has to pay the company two dollars a thousand for a five-year policy. That is, if he is the owner of the premises, and lives on those premises; and if there is a tenant in there he has to pay three dollars.

Q. Is that ever returned to him in the event there is no loss? A. We never had that chance.

Q. Do you accumulate then, a fund or surplus? Do you have an accumulation, or fund, you might call a surplus? A. We make an assessment each year to pay the losses of each year.

Q. Does this two dollars pay for the cost of doing business? A. Yes, it does, since we have got them larger, it does more; when the company was smaller it wouldn't do more than that.

Q. And the excess is collected into a surplus year by year? A. Yes.

Q. How much is that? A. Well, it is applied on losses; the assessments would be that much less on account of it. We only assess enough to pay up what we may owe, and make some provision for the future.

By Mr. HURRELL:

Q. Have you any suggestion you wish to make, by which this law could be improved that was put on the books last year; or has it been worked out enough for you to say? A. No, it is not in working order yet.

Q. That is, the companies do not go under it until the first of next year? A. Not until the first of January. Some things are incomplete.

By Chairman MERRITT:

Q. Do you know anything about what the aggregate of grange insurance in the State is; have you any idea? A. What the grange insurance is?

Q. Yes; there are a lot of companies like yours? A. Yes, there is about twenty grange companies. I think ours is the largest. I could not tell you, Mr. Chairman, about that. I did make some figures about three years ago, but they have gone from me, and they have increased a great deal since that.

Q. It is a pretty large aggregate, isn't it? A. Yes, the co-operatives of the State carry something over $400,000; that is, all the companies, grange companies, and those that are not.

Judge BRUCE: That is, the town companies?

The WITNESS: Yes, town and county companies throughout the State.

By Mr. HURRELL:

Q. How many members have you in your company, approximately? A. Between six and seven thousand.

Q. When there is a loss, do you wait until the end of the year before you assess to pay it? A. No, sir; we don't intend to have the treasury empty; we intend to have some on hand. If we don't have enough to pay up a loss we would borrow it, and we would not make the assessment until the usual time, the first of October.

Q. You just do the same way the stock company does, in that event, pay it if you have the money, and if you haven't got it, you borrow it? A. Yes.

Q. And then assess at a stated time every year? A. Yes, sir.

Q. How do you elect your officers, the same way Mr. Peck has described? A. Yes, they are elected, the officers are elected by the directors; the directors are elected by the policyholders in the annual meeting.

Senator WAGNER: How much of a surplus have you got?

The WITNESS: Well, we don't have any surplus, except as we create it at the close of the year; that is, on the first of October we make an assessment and pay the losses, if there is anything back. As I said, we then provide for future losses; we intend to make it large enough to cover the loss from now on until the first of next October. We don't always do it.

Chairman MERRITT: Do you carry $10,000 for three months?

The WITNESS: Yes, sometimes.

Chairman MERRITT: It isn't a surplus, but you have that much supply visible?

The WITNESS: Yes, I think as a rule the companies do not have much more than enough to carry them up to the first of January; but we always try to assess so that we will have enough to carry us through the year; that is, if we have to pay everything that comes along.

By Judge BRUCE:

Q. Would you, Mr. Vary, be opposed to amending the law in the manner suggested by Mr. Peck, on behalf of his company? A. No, I think not.

Q. It isn't your policy to accept such risks, anyway?

The CHAIRMAN: It wouldn't affect you in any way?

The WITNESS: It wouldn't affect us, no.

Judge BRUCE: Any other questions, Mr. Chairman?

Chairman MERRITT: No.

Judge BRUCE: That is all.

HENRY EVANS, called as a witness, being duly sworn, testified as follows:

By Judge BRUCE:

Q. You reside in New York, do you, Mr. Evans? A. I do, sir.

Q. And you are president of the Continental Fire Insurance Company? A. Yes.

Q. How long have you held that position? A. Since 1903.

Q. How long have you been engaged in the fire insurance business? A. Since 1878, thirty-two years.

Q. Your company is one of the largest operating in this country, is it not? A. Yes.

Q. Do you operate in any other countries except the United States? A. No.

Q. Your company is a member of the New York Fire Insurance Exchange? A. Yes.

Q. Of the Suburban Fire Insurance Exchange? A. Yes.

Q. Also of the New York State Association? A. Yes, we have recently become a member of the New York State Association.

Q. Now, there are several questions, Mr. Evans, that the Committee have been very much interested in, and which your experience would enable you to enlighten them upon, from your point of view. The first is the question of compact or anti-compact; whether in your judgment it is best for the companies and for the assured that there should be compact as there is here in the State of New York, or that the companies should operate under anti-compact legislation, as your company undoubtedly operates in the anti-compact states, and we would like to have your view upon it? A. Well, from what standpoint?

Q. Well, from the standpoint both of the company as the insurer and of the assured also. That is, from the standpoint of the fire insurance business? A. Well, I believe that a properly organized organization for making rates is in the interest of the public. I believe that from a selfish standpoint, from my own standpoint, the president of one of the largest companies in this country, that a condition of caste with reference to rates might result in some loss to us for a year or two, but at the end of that time the question of supply and demand would put us in a better position than we are now.

By Chairman Merritt:

Q. Survival of the fittest? A. Yes.

By Judge Bruce:

Q. And has that been your experience in times when there were no rate making organizations and there was open compe-

tition? A. Where? That condition has never existed all over the country.

Q. Take, for instance, when it did exist for a time in the metropolitan district here? A. It forced a great many companies out of business at that time, and it enabled the large companies to get a large amount of business on their books; those that were able to stand the storm.

Q. Well, why do you think that, aside from your point of view as to the ultimate interests of your company, being one of the great companies, that on the whole compact is of advantage to the community at large? A. I say a properly organized compact, and by that I mean one that is perhaps better than anything we have to-day; I mean one that would make rates under a form of schedule which would improve the physical conditions of buildings, and in a way bring about a reduction in the fire loss, which I consider one of the great economic questions of this country to-day, not thoroughly understood by the people at large.

Q. Well, the benefit to the public from compact is the operation of the organization in reducing fire hazard? A. Yes, very largely, and in a section like New York, where values are great, the rate is lower than it would be if it were governed by the law of supply and demand. You cannot get insurance here to-day, good insurance, in the heavy valued districts in this city, sufficient to give the merchants the protection they ought to have.

Q. Well, is that because there is not enough capital invested in the business, or is it by reason of the fact that certain good companies do not go into the field? A. Oh, I think all good companies are in the field. It is due to the fact that the great companies that handle their business properly are afraid to take too great liability, we will say between Twenty-third street and Chambers street.

By Chairman MERRITT:

Q. Is the condition of hazard so remarkable that the question of capital rather than rate is intermediate; it would not make any difference if you had a dozen or twenty more companies? A. No, not small companies.

By Judge Bruce:

Q. Well, taking up that point, what would you suggest could be done by legislation for the purpose of bringing into the market a larger volume of insurers? A. Well, I do not think you can do anything, sir. The conditions in this city are improving; the installation of the high pressure here has been of great value to the city and has enabled me to increase the line that my company is carrying in that district. But there are many companies doing business in New York city that are carrying so much that in case of a great fire they would not pay ten cents on a dollar.

Q. Now, that leads to a question that has been suggested here, as to whether or not you think it in the interests of the public that the State should limit the amount of insurance which any company could write in what is known as a conflagration district; that is, a proportionate amount to its gross assets? A. No, I do not think so, because it would then be a question of the distribution of that line in that district. I have recently had a case—you perhaps know that we have been called in to take the control of the Phenix Insurance Company, when Mr. Sheldon, the president, was found to be a defaulter, and I found that they had between $21,000,000 and $22,000,000 at risk between Fourth street and Chambers street. Now, that was bad enough under the best conditions. Their loss paying ability was about $2,000,000; that is, their capital and net surplus was about $2,000,000 at that time. If that business had been distributed from river to river it might have been that a fire, which usually burns fan shape, starts here and broadens out, would not have been so serious, but that they might have paid a fair percentage of their loss. But an examination showed that that business was all huddled right up in the middle where the values were greatest, and the lines in some of the blocks, in a single block, were in excess of $400,000.

Q. Well, would that condition be improved any if legislation provided that the city should be divided, by the superintendent of insurance, into what were known as conflagration districts, and limit the amount that such company, or any other company, could write within one of those conflagration districts? A. I do not think so.

By Chairman MERRITT:

Q. You could not make a conflagration district smaller than a block very well? A. No, it would be, it seems to me, impossible to define in a law a limit that would do justice, and still be safe. You have got—my own opinion is that you are doing harm when you try to control, or try to tell the public, that all companies are alike. I say let the buyer beware. Let him pick out his good companies or bad companies that he wants. He relies to-day, the insurer does, on the fact that New York State supervises the companies, and that they are alike very largely.

Q. Being alike in certain particulars he assumes they are alike in all particulars? A. Well, he thinks they are under the protecting arm of the State.

Q. Would you remove what superintendence there is? A. Yes, I think I would follow the English method, which requires these companies to make a statement to what is called the Board of Trade there. They are not supervised, but they have to make a statement as to the condition of the company.

Q. I suppose they are liable to some severe penalties for any false statement? A. It does not take them long to hang them up in the old country if they lie or steal.

Q. I want to ask Mr. Evans, right here: You spoke about improved conditions due to high pressure service, and that you have been able to increase certain lines in certain localities? A. Yes.

Q. Has that improvement been reflected in the premiums in any way, except in the increased opportunity of doing business? A. I do not think it has, sir, until recently. I think it should have been, but I do not think it has been.

Q. You think it will be? A. Yes.

Q. By competition? A. Yes. Well, yes, by competition. The trouble is that the values here in New York are so great that if you had no rate here at all — you take one of the great mercantile houses here to-day. I do not want to mention any names, but I have one in mind, where I will say the rate is a forty-five cent rate. They have to hunt the world over for insurance. I take it at forty-five cents because I have got a measure that I

have agreed to in making rates, and that measure says that forty-five cents is a fair rate on that risk, but if I had no agreement, if I had entered into no agreement of that kind and that man wanted insurance, I would say one per cent is my rate, because he has got to come to it.

By Judge Bruce:

Q. On account of the limited market? A. Yes.

Q. Now, Mr. Evans, don't you think ——

By Chairman Merritt:

Q. (Interrupting.) It is a fortunate agreement for him, then, is it? A. It is for all the great merchants. There is no question about it.

Q. That is why, from the standpoint of certainty of insurance, the agreement is a good thing? A. Yes.

Q. Possibly it might work the other way sometimes, on the risks of small value? A. Small value, but to a very small extent, sir. The rate on dwelling houses here now in New York is only ten cents. You could not cut it very much.

Q. Is it true that in making the rate the consideration is given along the line of making a sufficiently fair sort of rate that there will not be likely to be competition? A general satisfactory rate; what the traffic will bear? A. No, I do not think that is in mind. The schedule that is in mind, and the schedule that is used in New York city in making rates as formulated by the former president of the Continental Insurance Company. That is, he was the chairman of the committee and did the work very largely, and there it is (handing a book to Chairman Merritt). I thought you might ask me so I brought it for you, and it is the basis of all properly made schedules in this country to-day.

By Judge Bruce:

Q. Mr. Evans, don't you think that if the State permits combination, such as the New York Fire Insurance Exchange which makes and maintains rates, that there also should be State super-

vision of rates? A. Not of rates, but of the measure that makes the rate, yes, as you supervise in certain bureaus weights and measures and insist that a man shall use a certain yardstick of a certain length, so many dimensions of it in selling his goods. I think it would be very proper that the State should have supervision of that measure that we use in fixing our rates.

By Chairman MERRITT:

Q. Just what do you mean by that? A. Give me that book, sir, and I will show you. There is a schedule (indicating in book) which we use in making the rates. Every defect in that building is charged for on a certain per cent; certain si charge. Now, I say you go over that and say whether that is fair enough, and after we get all our defects, we give you credits for unusual conditions of safety.

Q. Now, the State, then, might say that in constructing a schedule it should be done according to a certain plan, and should take into consideration certain things. They could not say, though, that the addition for chimney not built from the ground up should be ten cents? A. No, it could say this: That the form of schedule should have the approval of the superintendent, or whatever officer you wanted to say.

Q. In other words, you would provide for the standardizing of schedules? A. Yes.

Q. You think that is a better way to construct a schedule than what — who was the gentleman that testified to-day?

Mr. HURRELL: Mr. Buswell.

By Chairman MERRITT:

Q. (Continuing.) Mr. Buswell; what he called an analytical schedule, which, as I understand it, consisted in additions on a percentage basis to the base rate, and not a flat addition here and there? A. There is no question in my mind but that this is the best form of schedule.

Q. More easily understood? A. Well, yes.

Q. It gets nearer to the truth? A. Yes; it gets nearer to the truth. That is right.

By Judge Bruce:

Q. Well, do you think that the State authority, whatever it is, superintendent or State board of appeals, should have a right to review the justice or injustice of the base rate? A. I see no objection to it, sir. You do not get any complaints in New York, do you, about rates?

Q. Some, if you are speaking of Greater New York? A. Well, I am talking about — well, say Greater New York, if you will. When you consider the thousands or hundreds of thousands of risks here you have had comparatively no objection, have you?

Q. Well, comparatively few. I would say that in comparison with the great number of risks. A. Yes. Well, I do not believe that the mercantile risk, the rate of which has been made by the application of the universal mercantile schedule, as it is called, in its modified form for New York, exists in this city to-day on which the rate cannot be justified, not only to you, but to the assured, and I believe further that it is better than a building law in this city, because it shows a man how his risk is defective, and it touches his pocket and he improves it, and in that way he stops the fire loss. Now, then, there is a provision in that schedule for a reduction in the rate whenever the loss ratio goes down in this city, and it ought to be applied. It is not applied by the Exchange, but it ought to be. If you improve your conditions and you get your fire loss down, why the property owner ought to have some benefit.

By Chairman Merritt:

Q. Is that one of the things they defer from time to time? A. Yes, sir, it is.

By Judge Bruce:

Q. That is not a part of the agreement, or part of the rules of the Exchange, is it? A. What?

Q. That in the case of decrease in fire loss there should be a decrease in rate? A. No, it is not.

Q. But it is a part of this schedule that you have referred to? A. Yes.

By Mr. HURRELL:

Q. That has been adopted formally by the Exchange, has it not, Mr. Evans? A. In a modified form, sir; not the whole thing has not been adopted.

By Chairman MERRITT:

Q. In view of the fact that the public is paying insurance all the taxpayers are, for the maintenance of fire departments and the execution of any building code laws and things of that kind they may have, though they do not just exactly call it that, how far do you think the municipality — I think the State itself could go a good ways in regard to building codes if it wanted to — how far ought they to go with the idea of preventing hazards? A. I think the State ought to have a standard building law for cities of different sizes, and for risks outside of cities, country risks. I believe that it is one of your greatest duties to stop the fire loss in this country. Now, I am not speaking from the insurance standpoint, because I do not care whether it is great or small. If I can get 6 or 8 cents out of every dollar I take in as a profit, that is all I want, but as a citizen and fire — I say to you, having some knowledge of the subject, being in this business, that the fire waste in this country if we did not have it, if it was normally, that is, sixty to seventy-five million dollars a year instead of two hundred and fifty to three hundred million dollars a year, we would have the world by the tail in about ten or fifteen years because it is an absolute waste.

Chairman MERRITT: That is where the money goes.

By Senator WAGNER:

Q. You are for conservation? A. Yes, I am.

By Chairman MERRITT:

Q. Well, of course, those things all come with the increased value of real estate, these improved conditions. You cannot build a million dollar block on a $10,000 lot. A. No, that is right.

Q. Of course if real estate gets valuable, people get ready to spend some money on it? A. Yes.

Q. And I suppose that is the reason why across the water they have developed construction ahead of us; a little older? A. No. They do not get the returns from real estate that we do here.

Q. They do not build any better buildings than we do here now, do they? A. Yes.

Q. Do they? A. Yes.

By Judge Bruce:

Q. You mean their modern fireproof building is better than our modern fireproof building? A. They are not so high and they are better built. We skin everything. They build for time.

By Chairman Merritt:

Q. That is because our real estate is changing in value so rapidly? A. Well, that has something to do with it, yes.

Q. Isn't that the fundamental reason? A. Yes, there is that reason.

Q. Don't you suppose that if real estate in any continental city was worth as much as it is in some of the particular locations in this city, somehow or other they would manage to build above or below the ground just as many stories as they do here? A. Why, real estate in the financial district of London is worth from six to eight times what it is worth here.

Q. In our financial district? A. Yes.

Q. I am surprised at that. I did not suppose it was worth any more. I knew it used to be, but I thought we had caught up? A. No.

By Judge Bruce:

Q. Now, in the States where they have passed the anti-compact law, Mr. Evans, has that resulted in open competition between companies, or have they, by the purchasing of the public writers, practically achieved the same end as compact, to wit, agreement upon rates? A. In most cases they have achieved the same end.

Q. These anti-compact laws, as a rule, have been — I was going to use the word nullified, but that is not the word exactly,

but the purpose for which they were intended to serve has been obviated by the companies buying the published rates? A. Yes, under permission of the courts as a rule. The court — the courts realizing that from an economic standpoint it is a good thing to have some one man make the rates for all the companies. There is no question about that if it is well done.

Q. Now, passing from this question of compact and rates, to the question of the cost of doing the business, the evidence before us, Mr. Evans, is that about 38 1/2 to 40 per cent of the gross premium is used up in expense. Does that seem to be a large amount to you? A. It seems to be large, but it is pretty hard to cut.

Q. Would it be reduced if a statute were passed making commissions uniform? A. Naturally it would if your statute was broad enough to cover payments by salaries to solicitors.

Q. Does your company belong to the Eastern Union and the Western Union? A. No, we do not belong to the Eastern Union. We are — we do not belong to them. We are members of that organization — I do not — it is a touchy point with me.

Q. Well, would you think it wise to place upon the statute books of our State a law making the commissions uniform, say at 15 per cent, without also enacting an anti-rebate law? A. No.

Q. Why not? A. Well, I think it would make a good many criminals.

Q. You mean the law would not be observed? A. Yes.

Q. Well, that is true of all laws, is it not? A. Yes. I do not look on insurance, on fire insurance, as a business that needs regulation at the hands of the Legislature.

Q. I know, but it is in the nature of a tax, is it not? You say whether there is fire waste or not you do not care, as long as 7 or 8 cents out of every dollar goes to your company? A. Yes.

Q. So that in the last analysis it is a matter of tax anyway, is it not? A. Yes.

Q. That is, every assured helps to pay every loss? A. Yes.

Q. Well, that is, it is a matter of the expense of it? A. They are tax collectors. There is no question about that.

Q. Then the expense is a matter of intense interest to the public. The question is, how can this 38 1/2 to 40 per cent ratio

of expense be cut down. If it can be cut down by making a flat commission which the Eastern and Western Union have agreed to, I believe about 15 per cent, why wouldn't that be just and equitable? A. Well, what would be more than a fair commission for one class of business would not be for another. The small business up town, the man that really needs insurance more than the man of large property interests, nine times out of ten would not insure unless he was solicited, and having a thousand dollars worth of furniture on which he pays a rate of 20 cents or a premium of $2 it would not pay anybody to solicit that risk for 30 cents; go down and get the policy, and deliver it, and go through that rigmarole. The broker or solicitor on small business earns 25 per cent.

Q. Then is the only objection you see to it the fact that some small property owners do not carry insurance where it is for their best interest that they should; do you see any other objection? A. No, except the general one I stated that I do not think the business needs regulation in its detail. I believe competition will bring it about; if a company pays too much it will be forced out of business; it will either be that, when it is wrong it will correct its business or be forced out of business.

Q. And has your observance led you to believe that the commissions should not be regulated —— A. The commissions are regulated in the city of New York.

Q. I was thinking of throughout the State, outside of the city? A. They are very largely throughout the State, the Eastern Union and other companies.

Q. There are a great many non-organization companies, are there not who are not members of the Union? A. Yes.

Q. And of course they bid up and bid up for the preferred business, do they not? A. Oh, not unless the preferred business is rated too high.

Q. That is the point I was getting at? A. That is it. Well, I say then the companies realizing that that is the case and desiring to keep their commissions down will reduce the rates on that class of business, and where an excess commission is paid ninety-nine times out of one hundred a portion of it goes to the assured in rebates.

Q. Of course a law regulating commissions would have following with it an anti-rebate law? A. I don't know why. That I could never understand.

Chairman MERRITT: I have been trying to find out from counsel why myself.

A. I am glad I am in good company then.

Q. Now, passing from that to the question of licensing of brokers. There has been the proposition advanced here by a great many brokers in the field that instead of holding their certificates or licenses from the Exchange they should hold them from the State. What are your views upon that? A. I don't believe in it.

Q. Why not? A. It will put the business in the hands of the large brokers very largely.

Q. How? A. Well, there are a great many men that solicit a line here and there, that have a small amount of business, and place it with some uptown agent, and they won't feel that they can afford to pay such a license fee as I have seen mentioned under consideration.

Q. Assume that the license fee should be no larger than it is now? A. What is it?

Q. Ten dollars, is it not, on the Exchange? A. Yes, on the Exchange.

Q. Assume that it would be ten dollars or some reasonable sum? A. That fee that the Exchange charges is for services rendered; it is not merely for a license.

By Chairman MERRITT:

Q. They would have to pay that anyway, wouldn't they? A. They certainly would. I don't see how we could do it unless you made us take it out of the assured again some way; it would be a tax against the assured. We have departments there with I should imagine twenty or thirty clerks that are doing nothing all the time but give these brokers information. Now, they ought to pay for the time that they take up.

Q. They can make them pay the way Dun and Bradstreet do for an inquiry beyond the allotted number? A. That would

inaugurate a system of bookkeeping that we do not have to have now.

Q. Something more for the assured? A. Yes.

By Senator WAGNER:

Q. Are these brokers entitled to this information as a matter of right in their license? A. I think so; I could not say definitely; I think they are. Certainly they are given the information if not of right as a courtesy and a desire to keep them active.

Q. I was going to suggest if they would pay that ten dollars towards the expense of maintaining a bureau of that kind they ought to in return for that have the right to this information? A. I think they have; I do not think there is any doubt about it.

By Chairman MERRITT:

Q. They get it anyhow? A. Yes, they get it.

By Judge BRUCE:

Q. What is your position upon the valued policy law? A. It puts a premium on fraud. It does no good to anyone except the dishonest man.

Q. Do you think that the companies should accept a premium upon an amount of insurance for a number of years, and then when a loss occurs, a total loss, in the absence of fraud, refuse to pay the amounts named in the face of the policy? A. They do not agree to pay the amount named in the face of the policy; they agree to indemnify the assured against loss by fire.

Q. But why should not the policy contain a provision that the liquidated damages in the event of total loss should be the face of the policy? A. Because that would result in every man that had a building that he could not use commercially, that had no value, wanting to have it burned up.

Q. I know, but we have a number of States in the Union, some of them are most foremost States, that have such a law. Has the experience of your company been such in those States; take the State of New Hampshire, for instance, it has such a law? A. Well, I think that eight times out of ten the law is ignored in

the adjustment of a loss, and I know that it results in our not writing certain classes of risk, where what we term the moral hazard is an inherent part of the risk, that is, the country risk, farming property.

Q. That is the fundamental to it, is it not, the increase of the moral hazard? A. Yes; it develops a moral hazard; it gives a reason for a man to desire that his property be burned, and it puts on the honest insurer the burden of paying the loss. As I say, we have got to try and get that six or eight cents out of every policy, and the honest man has got to pay us enough to reimburse us for the losses that we have had for crooks.

Q. You cannot have more insurance than the value of his property without the consent of the company or its agent? A. Why no, that seems the reason why we should protect ourselves, but, on the other hand, the cost of an actual appraisal of any property before we insured it would use up so much of our premium that the rates would have to be doubled in order to take care of any such careful investigation.

Q. I presume it is a fair observance that no one is so well acquainted with the value of the property as the owner himself? A. That is so.

Q. But to pass from the valued policy law to the question of the co-insurance clause. The proposition has been made here that the co-insurance clause should not be placed on a policy except on the application of the assured, as the laws, I believe, of the State of Minnesota provides? A. Yes.

Q. It seems to be a general complaint that so few persons who take out policies known anything about the co-insurance clause, and very much fewer agents know anything about it, that it should not be inserted except upon application of the assured in writing. What has your view been with relation to the operation of that law, take in the State of Minnesota where it is in force? A. I do not think it has had any effect. The average insurer will sign anything the agent or the broker tells him to, because while the man is supposed to be our agent, he is really the agent of the assured; we pay him the commission, but he would not get any commission if the other fellow did not give him the business.

Q. And the assured is a personal client? A. Yes.

Q. And in many cases, in most cases, in fact, he places the insurance with whatever company he wishes? A. Yes. Where there is an application—I have seen it done time and time again—the agent will sit down and write out the application and say, now you sign that, and he signed; he don't know what he is doing.

Q. Well, Mr. Evans, it has been asserted here with a great deal of force that it would be more just and equitable to the assured if the rate of premium was fixed upon the amount of insurance he carries and not fixed arbitrarily at eighty per cent, it should be flexible, for instance, thirty, forty, sixty per cent, seventy or eighty per cent, or up to the full value; that is, a man should be permitted to carry as much insurance as he wished, and pay a rate correspondingly? A. I think that is right.

Q. That that would be more just and equitable, but it might be quite impracticable, possibly in its operation, difficult to fix a schedule——

Chairman MERRITT: Could they just as well fix the schedule?

The WITNESS: Yes, it is so fixed; that schedule is so framed that a man can take out anything he wants in the way of percentage of insurance to-day.

Q. And have a rate accordingly? A. Yes, sir.

By Chairman MERRITT:

Q. But in the ordinary course of business he is invited to take the eighty per cent co-insurance? A. The eighty per cent co-insurance clause was fixed with the idea that it was a fair amount of insurance to value, and that it was not so great as to give a man an incentive for being careless; he would have some reason to protect his property. As a matter of fact, most risks are over-insured when you come to adjust a loss. Sometimes a condition exists such as we have had here in New York where the cost of building increased very greatly in five or six years, that is, in a boom time; if a man happened to have a building that he put up in a panic, and it burned in boom time he might be shortly insured, but as a rule he is over insured. That is especially true uptown, where the mortgage is usually greater than the value of

the builder, and the lender requires the policy to cover his mortgage.

By Judge BRUCE:

Q. What do you think the Legislature could do, if anything, to better or improve the fire insurance business in the State of New York? A. That is a big question.

Q. Well, you have had a wide experience at the head of a big company? A. Well, I could not go into that theory.

Q. Now, Mr. Evans, if you will give that a little consideration before this Committee adjourns, and give us the benefit of your views, with your broad experience in the fire insurance business, in the management of one of the greatest insurance companies operating in the United States, the Committee would appreciate it, because it is the purpose of the Committee not to in any way injure or hamper the business; it only has an earnest desire to do anything that can be done, if anything can be done, that would improve and benefit the business both from the standpoint of the company and that of the assured? A. I might tell you how you could improve the condition for the assured, but I would prefer not to go into the feature of how you could improve it for the company, because my ideas are rather radical, and I am rather opposed to the views of some of my associates in the business. I do not care to stir up——

By Chairman MERRITT:

Q. You do not care to make an issue of it? A. Without a reason; I don't care anything about it one way or the other, but I do not see any need; it would not do any good anyhow.

Q. We don't care much about it one way or the other. We have been given a job to do if we can. What a witness said this morning in regard to what had brought on the various restricted acts of some of the western states we are asking here; they got to regulating, attempting to regulate, and while they were about that they thought they might as well regulate insurance. If there is nothing that can or ought to be done, why, I think this Committee had just as soon find that as a conclusion as anything else.

A. The nearer you get to free trade, Mr. Chairman, that is, the nearer the conditions come to allowing any company to do business in your State, the better you are going to serve the interests of the people with reference to rates; if you couple with that a fair supervision of conditions, and realize that a fire insurance company is not a life insurance company. The life insurance company is a depositary of funds like a savings bank and should be restricted in its investments possibly. I do not think the present restriction is a wise one, but there should be some restriction perhaps put about the life insurance business that is not put about the fire insurance business, because we are organized to make money. The other people are organized to take care of the widows and orphans.

Senator WAGNER: Incidentally the stockholders.

Q. You are a little franker than they are, that is about all the difference? A. No, no; we are a stock organization; we put up our money.

Q. Some of the life insurance companies have? A. No, they do not; the Equitable Life Assurance Company has got $100,000 capital.

Q. That is purely an eleemosynary institution. There are some of them that are stock companies I think. A. Well ——

Q. Of course there are some mutual fire insurance companies? A. Yes; some of them are good too; and if you can get John R. Freeman of Providence, Rhode Island, who I consider the greatest mutual underwriters in this country, and the consulting engineer here for your water commission, the New York State Water Commission, on the stand, he will be a good man for you to get.

By Judge BRUCE:

Q. He has been there. Do you think the factory mutuals should be admitted into our State to do business? A. I do not see any reason why they should not, speaking from the standpoint of the people.

Q. And also the New England miscellaneous mutuals? A. Yes.

Q. You said that you could make some suggestion of things that could be done that would benefit the assured? A. Yes.

Q. Will you give us those? A. You asked me if I would consider the question.

Q. Yes, would you consider the question and give them to us at some later day? A. I think you want to go at this thing at the root, and that underlying it all is your condition with reference to construction and fire hazards in the State, lack of proper supervision of the payment of losses, and the investigation of fires.

By Chairman Merritt:

Q. One gentleman testified in regard to the question of some of the conditions that existed abroad in other states as to the causes of fires and responsibility, that he did not think that the people in this country would stand for it if they were penalized for carelessness and all that sort of thing, yet he admitted that he thought it had a very great influence in reducing the amount of destruction of property; what do you think about that? A. I do not think that the man that introduced the bill having such restrictive features in it would be popular.

Q. Suppose he did not care whether he was popular or not? A. Then I think he would do a real service, a great service, but it would be slow you know. Your conditions will only improve as buildings are torn down and new ones are put up. I think that is one reason that there is so much apathy on the subject. A man realizes what is the use of doing it to-day, you won't feel it for twenty-five years.

Q. If it is the truth —— A. It is the truth.

Q. And it is fairly expressed in accurate terms it has to become a law, it don't make any difference whether it is popular or not; it will be? A. That is right.

Q. The question is how to do a thing like that, that is all; that is my experience.

Q. Well, you want a State Building Law, and you want proper supervision of the cause of fires through a fire marshal that will do his duty, not as it has been done sometimes.

By Mr. Hurrell:

Q. You spoke a moment ago about having some ideas that were unpopular, that you were not anxious to urge here, and I assume

from that that you had reference to some ideas you urged some years ago before the Legislature, in reference to the standard fire policy in particular and a new Fire Insurance Code; was that what you had in mind? A. No, I did not have that so much in mind at the time. I don't know of any reason that I should fear to be unpopular because I advocated a change in the standard form of policy. I felt a good deal about that as the chairman does, it is the right thing, I would not care; but some of my views, what I would do with some of my views in some directions would look as though they were entirely selfish, and they probably would be, because I have got a big company.

By Chairman MERRITT:

Q. Wisdom has been defined as enlightened selfishness sometimes; it might be the case. A. Yes.

By Mr. HURRELL:

Q. If those views are such that you believe if they were put into operation that the public would be benefited, I for one would like to have them in the record. I am inclined to get what there is to this problem in the record, and it would be a service to have your views on something that you might even have that opinion about; someone else might not like them; I would like to have them in the record. A. The question of the change in the standard form of policy, I advocated that before the Legislature. I went to Albany three or four times and appeared before the committee, and the chairman of the committee asked me if I was not the head of the largest aggregation of capital in the fire insurance business. I told him yes. He smiled, and seemed to think that that was the reason for my desire to have a change in the form of policy. Now, I told him that there was always a selfish motive that of every move of that kind, and that I would explain that mine was that my company always paid one hundred cents on the dollar, and I wanted to make the other fellow do the same thing, and therefore I wanted a form of policy with conditions that he could not get around. That came about directly after the San Francisco fire, and grew out of the effort on the part of a great many companies not to pay only a percentage of

their losses; and I printed a form of policy and made an explanation and sent out ten thousand copies of it for criticism, and finally perfected it, and I think Senator Agnew introduced the bill for me; had someone in the lower house do the same. I did it openly; put it out that I was the man that had gotten up this form; but I got tired of going up there, and thought I would let it alone.

Q. Now, I believe that the present form of policy ought to be changed in the interests of the public, and in doing it in the interests of the public it is going to help me, because it is going to make the little fellows that don't pay the losses — I don't mean the little fellows — there are many small companies that are just as honest as some of the big ones,— but — it is going to make all the companies pay their losses without taking advantage of technicalities, a liberal company, a fair company, does not.

By Chairman Merritt:

Q. You desire to see everybody in similar conditions in the same position as to being obliged to settle? A. Yes, sir.

Q. You don't need to be sensitive about that because whether it be recognized or not, it is true that there was never a piece of legislation that did not have some selfish interest behind it? A. I admitted that was back of it. It was not the controlling question or the controlling point, but they were looking for a selfish interest, and I said "That is it."

By Mr. Hurrell:

Q. Did you embody your views — you said you sent out about ten thousand circulars? A. Yes, sir.

Q. In which you advocated the specific changes in the standard policy? A. Yes. I brought one of them up here.

Q. Have you any objection to running through that, if it is not too long, to just state why the changes, why you suggested the changes? A. It is pretty long. It is all explained in there, and it would take a good while for this committee to listen to it.

By Judge Bruce:

Q. Is this one of them? A. Yes, sir.

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